

<p style="text-align: right;">Page 194</p> <p>1 G. Hayden</p> <p>2 A. See this door? You see that</p> <p>3 door? Do they look the same to you? Does</p> <p>4 this look the same as this? Or does it look</p> <p>5 much thicker to you? Maybe you can't tell.</p> <p>6 Q. I can't tell.</p> <p>7 A. Well, it is not the same, so</p> <p>8 obviously it is redrawn and it is not off the</p> <p>9 same AutoCAD.</p> <p>10 It is a different light type</p> <p>11 which would suggest a different kind of a door</p> <p>12 handle, a different kind of look, a different</p> <p>13 kind of everything. So it is technically a</p> <p>14 redrawing, I can tell you that much.</p> <p>15 What about the lettering, if you</p> <p>16 notice any of that, do you see all this</p> <p>17 reflected on that? Or maybe not. Maybe you</p> <p>18 do. It is a different drawing, totally</p> <p>19 different. All this explanation all this</p> <p>20 lettering all that stuff, both sides, it is</p> <p>21 not the same. Or is it?</p> <p>22 So again I'm going to tell you</p> <p>23 for the last time, so we can go home early</p> <p>24 enough. This document is prepared to</p> <p>25 facilitate the construction of a design</p>	<p style="text-align: right;">Page 196</p> <p>1 G. Hayden</p> <p>2 dining room? The dining room elevation is the</p> <p>3 dining room. My dining room is over here, my</p> <p>4 living room is over here. Okay? The last one</p> <p>5 that would be the foyer is over here. So</p> <p>6 foyer, dining, living room, detail.</p> <p>7 MR. McKEE: All on A-5.</p> <p>8 A. This is how the sheet is</p> <p>9 organized. So any kind of contractor looking</p> <p>10 at this can say, yeah, let's take a look at</p> <p>11 the foyer, here's all the walls of the foyer.</p> <p>12 Let's move to the dining room, there's all the</p> <p>13 walls of the dining room. He can do it very</p> <p>14 easy, and it is not really a matter of</p> <p>15 thinking. How you hang the panels? You hang</p> <p>16 the panels like that.</p> <p>17 MR. McKEE: Like what?</p> <p>18 THE WITNESS: As shown on the</p> <p>19 panel installation detail and to scale,</p> <p>20 that's very clear and very precise as</p> <p>21 to how the panels get put on these</p> <p>22 walls when they come from Italy.</p> <p>23 Q. That's on the upper right-hand</p> <p>24 corner of A-5, correct?</p> <p>25 A. Correct. That's how you install</p>
<p style="text-align: right;">Page 195</p> <p>1 G. Hayden</p> <p>2 concept by this Pepe on. Whatever information</p> <p>3 was given to me we have facilitated the</p> <p>4 construction of his little concept on a</p> <p>5 complete and legible set of documents that was</p> <p>6 executed 100 percent. Now what's wrong with</p> <p>7 that story? Okay?</p> <p>8 Q. Let's turn our attention to</p> <p>9 page A-5. And I would ask you to compare</p> <p>10 page A-5 of Defendant's Exhibit 8 with</p> <p>11 Mr. Calderon's designs in Plaintiff's</p> <p>12 Exhibit 2. I would ask if the drawings to</p> <p>13 page A-5 are taken from Mr. Calderon's</p> <p>14 designs?</p> <p>15 MR. McKEE: Objection to form.</p> <p>16 A. Inclusive of this horrible</p> <p>17 chandelier here that he stuck in the foyer, it</p> <p>18 does, it's got to. Because that chandelier</p> <p>19 here in the foyer is very heavy and it has to</p> <p>20 be supported. So if you don't show it, they</p> <p>21 will have to support it.</p> <p>22 Essentially the answer to that</p> <p>23 should be the same, because if you don't do</p> <p>24 that, you'd be missing something. So this</p> <p>25 living room, dining room whatever, this is</p>	<p style="text-align: right;">Page 197</p> <p>1 G. Hayden</p> <p>2 these panels. That's exactly how the panels</p> <p>3 were put in. So the fasteners are not visible</p> <p>4 from the phase of the panels, it is behind the</p> <p>5 panels. They hook from the top like this.</p> <p>6 Hook it up from the top, that's exactly what</p> <p>7 it is.</p> <p>8 Q. Are there any differences</p> <p>9 whatsoever between your drawings on A-5 and</p> <p>10 Mr. Calderon's designs contained in</p> <p>11 Plaintiff's Exhibit 2?</p> <p>12 A. As I said, his drawings are a</p> <p>13 little bit, 8-1/2 by 11 sheets. If you take</p> <p>14 the dining room which got, 1, 2, 3, 4, to my</p> <p>15 dining room 1, 2, 3, 4. They have to be about</p> <p>16 the same.</p> <p>17 Q. Sitting here today, do you see</p> <p>18 any differences?</p> <p>19 MR. McKEE: Objection.</p> <p>20 MR. ISRAEL: Objection.</p> <p>21 A. As I said, the lettering, around</p> <p>22 the perimeter, is not the same. Okay, that</p> <p>23 was put in by us.</p> <p>24 Q. When you say the lettering around</p> <p>25 the perimeter you're referring to the material</p>

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<p style="text-align: right;">Page 198</p> <p>1 G. Hayden</p> <p>2 description?</p> <p>3 A. Right, the material description</p> <p>4 is put in by us. But you got to respect his</p> <p>5 material selection when it says, marble/suede</p> <p>6 panel, marble/suede panel on the other. That</p> <p>7 is pointing to the right section of the panel,</p> <p>8 to call it whatever you want to call it. As I</p> <p>9 said, you can change that and you get all</p> <p>10 different paneling, right?</p> <p>11 Remember it went to Italy, so you</p> <p>12 have to be careful what you call it. I called</p> <p>13 it what I call it. So essentially if you</p> <p>14 don't follow these little sketches Vladimir</p> <p>15 will get a panel he did not order.</p> <p>16 Q. So very specifically, other than</p> <p>17 the lettering that describes the materials</p> <p>18 around the outside of the drawings on</p> <p>19 page A-5, are there any other differences</p> <p>20 between your drawings on page A-5 and</p> <p>21 Mr. Calderon's designs that are contained if</p> <p>22 Defendant's Exhibit 2?</p> <p>23 MR. ISRAEL: Objection. You can</p> <p>24 answer.</p> <p>25 A. Let's take a look at the living</p>	<p style="text-align: right;">Page 200</p> <p>1 G. Hayden</p> <p>2 are any other differences.</p> <p>3 MR. ISRAEL: Objection, he was</p> <p>4 answering the question.</p> <p>5 A. The differences are additional</p> <p>6 information that the contractor is going to</p> <p>7 need to build it. That's what I'm here for.</p> <p>8 But I'm not going to change what he put down</p> <p>9 for the contractor to build something either,</p> <p>10 okay? We're going to make the contractor do</p> <p>11 what we want him to do using that concept. Am</p> <p>12 I right or wrong or? Or maybe I'm not right</p> <p>13 or wrong, or maybe you don't care.</p> <p>14 Q. It is not for me to judge whether</p> <p>15 you're right or wrong. I am just here to get</p> <p>16 facts.</p> <p>17 Other than the differences you</p> <p>18 described here today, are there any other</p> <p>19 differences between your drawings on page A-5</p> <p>20 and Mr. Calderon's drawings on Plaintiff's</p> <p>21 Exhibit 2?</p> <p>22 A. No.</p> <p>23 Q. I am showing you again,</p> <p>24 Mr. Hayden, what's been marked as Defendants'</p> <p>25 Exhibit 7, and I am turning to page A-8. Am I</p>
<p style="text-align: right;">Page 199</p> <p>1 G. Hayden</p> <p>2 room for a moment. See if there is any major</p> <p>3 variation. Not really -- it is more on the</p> <p>4 interpretation of that. Dimensions are</p> <p>5 indicating the soffit, it doesn't have here.</p> <p>6 It is more like organization in a way so the</p> <p>7 contractor can actually do this. You know?</p> <p>8 Q. So am I correct, your designs on</p> <p>9 page A-5 are the same as Mr. Calderon's?</p> <p>10 A. Don't call it my design, it is</p> <p>11 his design.</p> <p>12 Q. All right, all right. I</p> <p>13 apologize.</p> <p>14 A. No problem.</p> <p>15 Q. So you said the lettering on the</p> <p>16 outside of the living room elevation and some</p> <p>17 of the numbers used to represent the</p> <p>18 dimensions on the living room elevations are</p> <p>19 different between your drawings and</p> <p>20 Mr. Calderon's drawings. Are there any other</p> <p>21 differences?</p> <p>22 A. What the contractor needs to</p> <p>23 install these things --</p> <p>24 Q. I'm not asking what the</p> <p>25 contractor needs. I'm just asking if there</p>	<p style="text-align: right;">Page 201</p> <p>1 G. Hayden</p> <p>2 correct that page A-8 contains living room</p> <p>3 elevations?</p> <p>4 A. Living room elevations? It is</p> <p>5 very close, I'm telling you.</p> <p>6 MR. McKEE: No, no. The question</p> <p>7 is, does it contain living room</p> <p>8 elevations? What is the sheet</p> <p>9 entitled?</p> <p>10 THE WITNESS: Living room, you</p> <p>11 see up there, living room elevations.</p> <p>12 Q. Are there any differences between</p> <p>13 Defendants' Exhibit 7 page A-8 and the living</p> <p>14 room elevations contained on Exhibit A?</p> <p>15 A. Absolutely, huge differences.</p> <p>16 Q. What are those differences?</p> <p>17 A. Just to say the least, is the</p> <p>18 type of doors they have on the library, the</p> <p>19 type of panels you have on both sides of that</p> <p>20 wall, day and night.</p> <p>21 Q. We're just talking about -- I</p> <p>22 didn't mean to interrupt.</p> <p>23 A. It is not even close. This is</p> <p>24 what you want, right, this is the elevation</p> <p>25 you're looking at.</p>

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<p style="text-align: right;">Page 202</p> <p>1 G. Hayden</p> <p>2 MR. McKEE: You're talking about</p> <p>3 elevation number 2.</p> <p>4 A. Well, you can name it 2, but as a</p> <p>5 matter of fact this reflects this.</p> <p>6 Q. It is the south elevation?</p> <p>7 A. Whatever. You call it A, B, it</p> <p>8 is A, B. So this is that. This scale is</p> <p>9 double the scale of this one so it looks</p> <p>10 bigger. That's essentially the same</p> <p>11 elevation.</p> <p>12 What I'm saying is, if you look</p> <p>13 at the doors to the library, right?</p> <p>14 Q. The doors of the library?</p> <p>15 A. They're not the same doors.</p> <p>16 Q. What's different about the doors?</p> <p>17 A. Different design altogether.</p> <p>18 Totally different. You see the panels on the</p> <p>19 door, the more horizontal on this one and more</p> <p>20 vertical on that. You see the panel here is</p> <p>21 not the same panel that you see there.</p> <p>22 MR. McKEE: Panel to the right</p> <p>23 and left of the door.</p> <p>24 A. You see the other side is stone.</p> <p>25 I don't see any material. This is more like a</p>	<p style="text-align: right;">Page 204</p> <p>1 G. Hayden</p> <p>2 need to ask you about is about page A-16. So</p> <p>3 am I correct that A-16 specifies the materials</p> <p>4 to be used in the various living room</p> <p>5 elevations?</p> <p>6 A. You really want me to look at</p> <p>7 that drawing for you right now?</p> <p>8 Q. Yes, please.</p> <p>9 A. And give you that answer?</p> <p>10 Q. Yes, please.</p> <p>11 A. I don't understand why I'm</p> <p>12 suppose to do that.</p> <p>13 THE WITNESS: Is that okay?</p> <p>14 MR. ISRAEL: Do it. Give him his</p> <p>15 answer.</p> <p>16 A. He's got leather on the top,</p> <p>17 okay, and he's got this -- I don't know what</p> <p>18 this is all about. And in between one foot</p> <p>19 and a half of what, you go to section 12 of</p> <p>20 A-15 you might be able to figure it out, okay?</p> <p>21 Maybe I do this every day and I</p> <p>22 don't have to refer you to a million different</p> <p>23 drawings to get you an interpretation of what</p> <p>24 this is all about. Still I'm not seeing</p> <p>25 materials, okay. You got a stone rail. Yeah,</p>
<p style="text-align: right;">Page 203</p> <p>1 G. Hayden</p> <p>2 sketch. This is worse than the other guy's</p> <p>3 sketching. I'm telling you the truth. You</p> <p>4 can't build from that either, okay? There is</p> <p>5 no specifications of material, none of that</p> <p>6 junk is in there, so how do you do that?</p> <p>7 Unless you tell me this is not a complete set.</p> <p>8 It will take a genius.</p> <p>9 Q. What information is missing?</p> <p>10 A. Can you tell me what kind of</p> <p>11 panel that is? You tell me what it is.</p> <p>12 Q. Let's turn to page A-16, and am I</p> <p>13 correct that A-16 provides material</p> <p>14 descriptions?</p> <p>15 A. Yeah, but where did you get A-16?</p> <p>16 Did I ever see this horrible drawing? I never</p> <p>17 saw that. Where do you come up with that?</p> <p>18 Q. It is your opinion that page 18</p> <p>19 is a horrible drawing, correct?</p> <p>20 A. It is not horrible. A great</p> <p>21 drawing on A-16, why are you sticking it in my</p> <p>22 face? I have nothing to do with it. Did I</p> <p>23 ever see that?</p> <p>24 Q. Unfortunately I have to ask you</p> <p>25 some questions here. One of the questions I</p>	<p style="text-align: right;">Page 205</p> <p>1 G. Hayden</p> <p>2 it is scattered. It is scattered all over the</p> <p>3 place, okay. While in fact that little sketch</p> <p>4 from the designer consolidated that even</p> <p>5 further. You don't have to do all this.</p> <p>6 But the question is, if he has</p> <p>7 all these so called stupid drawings, what do</p> <p>8 you want from me now? Why did you make me do</p> <p>9 this? Okay, what did you do that for?</p> <p>10 Q. I'm just asking you about</p> <p>11 similarities.</p> <p>12 A. I'm very, very, very annoyed</p> <p>13 about the subject. If he had all of these,</p> <p>14 what do you need this for then? He bit from</p> <p>15 this and he had all these.</p> <p>16 MR. ISRAEL: Say what you're</p> <p>17 pointing to.</p> <p>18 A. My drawing A-5 constructed the</p> <p>19 entire apartment at 515 Park Avenue. This</p> <p>20 little drawing did the whole job for you.</p> <p>21 Okay. Now you're telling me he had the same</p> <p>22 interpretation of this drawing on that set of</p> <p>23 construction documents, and then yet he asked</p> <p>24 for this?</p> <p>25 Q. I'm trying to understand exactly</p>

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<p style="text-align: right;">Page 206</p> <p>1 G. Hayden 2 what you're saying. Is it your testimony that 3 you find it hard to believe that 4 Mr. Voronchenko and Medallion were in 5 possession of this document which is 6 Defendant's Exhibit 7? 7 MR. McKEE: Objection. 8 MR. ISRAEL: Objection. 9 A. It is not that I'm finding it 10 hard to believe, I am not understanding the 11 degree in which -- regardless of what I'm 12 looking at in here, this had absolutely no 13 impact on the construction of the site. 14 MR. ISRAEL: Say what you are 15 referring to. 16 A. This set of great drawings that 17 you call -- 18 MR. McKEE: Defendant's 7. 19 A. Whatever you call it, had no 20 impact or direct relationship to the job site 21 in any circumstance. It was never seen, was 22 never interpreted, was never looked at. Of 23 course, was never filed, was never even 24 considered to be in existence. This is what 25 he built from, like it or not. And you might</p>	<p style="text-align: right;">Page 208</p> <p>1 G. Hayden 2 one -- 3 A. Only if you -- 4 Q. Let me finish. 5 A. Go ahead, go right ahead, please 6 do. 7 Q. It is your testimony that no one 8 involved in the design or renovation of the 9 apartment ever saw Defendant's Exhibit 7? 10 A. That is not what I said. 11 Q. Okay. So let me ask you -- 12 A. During the construction process, 13 and the reason why you would have a set of 14 drawings like that is for construction 15 purposes during the construction process. The 16 demolition, the erection of the walls, the 17 removal of the mold, and all of the above. 18 Nobody at any given point made reference to 19 anything like this, whatsoever. 20 Do you need this? It is not my 21 point. My point is, this was never brought to 22 the life of this project under any 23 circumstances by any contractor, 24 subcontractors, whatever. 25 Nonetheless, I can tell you one</p>
<p style="text-align: right;">Page 207</p> <p>1 G. Hayden 2 say this A-5, this little drawing of yours, 3 A-1 through A-5, in fact, did the whole 4 apartment, the answer is brief, yes, it did. 5 Do I need all this? Tell me. You tell me. 6 MR. ISRAEL: He wants you to tell 7 him. 8 Q. Even if I understood what you're 9 asking, I wouldn't answer the question because 10 I can't give any evidence, only you can. 11 A. What evidence? This is like a 12 bunch of things that you want me to do, you 13 want me to interpret it to you, is that what 14 you want me to do? 15 Q. Is it your testimony -- 16 A. I'm really serious now. 17 Q. Hold on. Is it your testimony 18 that Defendant's Exhibit 7 was not used at any 19 point in the design or renovation of the 20 apartment? 21 A. No. 22 Q. You're positive about that? 23 A. No, no. Absolutely not even 24 close, nobody ever saw this. 25 Q. So it is your testimony that no</p>	<p style="text-align: right;">Page 209</p> <p>1 G. Hayden 2 more thing. If you work in accordance with 3 these documents, you're in violation of the 4 permit. And why is that? Because the permit 5 has the application numbers with documents 6 attached to it, and does not include these 7 horrible drawings. So what does that tell 8 you? This thing is meaningless, meaningless. 9 You know what? I don't want to 10 look at it. It is more than meaningless. 11 This is what built the apartment. For the 12 little fee that I got, this is what built the 13 apartment, like it or not. 14 Q. Does Plaintiff's Exhibit 7 bother 15 you? 16 A. It doesn't bother me. It doesn't 17 bother me. It is irrelevant to the 18 construction process altogether and to the 19 final analysis, what the client got. They did 20 not do to those documents, it is done to those 21 documents. 22 Q. So the record is clear, during 23 his answer to the previous two questions, 24 Mr. Hayden folded up Plaintiff's Exhibit 7 and 25 pushed it away from him. And that's why I</p>

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1 G. Hayden  
2 asked whether --  
3 A. Let's open it one more time and  
4 make you happy.  
5 Q. -- the document bothered you in  
6 some way.  
7 A. It didn't bother me, no, no, no.  
8 It did not bother me at all. The fact that  
9 I'm finding this document completely  
10 irrelevant is that the construction process,  
11 it really bothered me. You're not presenting  
12 something that was used during construction  
13 that I looked at and I approved of. Because  
14 remember, this is my CO, it is my job, it is  
15 my drawings, it is my ending, signing off the  
16 job, it is my job. I see a document on the  
17 construction site unrelated to my seal and  
18 signature, they are rejected.  
19 Q. Did Pepe --  
20 A. And the job is stopped, stopped.  
21 Q. Did Pepe Calderon copy  
22 Plaintiff's Exhibit 7?  
23 MR. ISRAEL: Objection.  
24 MR. McKEE: Objection.  
25 A. That's his problem. How would I

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1 G. Hayden  
2 know? I got his drawings from Pepe. I have  
3 no clue in connection with this under any  
4 circumstances what Pepe did, didn't do. His  
5 place is in Florida, not even New York.  
6 Q. Do you know whether Pepe Calderon  
7 copied --  
8 MR. McKEE: Objection.  
9 A. He didn't come to me and say, by  
10 the way, here are the drawings. He had two  
11 drawings here. If they are copies, if he had  
12 said that --  
13 MR. ISRAEL: Objection.  
14 A. He's objecting. Do you think I  
15 would say no problem? I'm glad you copied it,  
16 I'm happy for you. It is just not acceptable.  
17 Q. If you had known that  
18 Mr. Calderon had copied Plaintiff's Exhibit 7,  
19 would you have used Mr. Calderon's drawings?  
20 MR. ISRAEL: Objection.  
21 MR. McKEE: Objection.  
22 MR. ISRAEL: Misstates testimony.  
23 A. Do I look like I would use them  
24 anyway?  
25 Q. I'm asking you.

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1 G. Hayden  
2 A. You tell me, listen this is a  
3 \$1,000 fee except it is really stolen. You  
4 think I'm going to take it? You keep it, you  
5 stole, you keep it my friend. I'm not going  
6 to do that for you, okay? And encourage you  
7 to cost you another thousand dollars. I'm not  
8 going to do that. The answer is, no.  
9 If Pepe came to my office and  
10 said, oh, by the way, you know what, you know,  
11 I took it from whatever, it is yours. Really?  
12 Yeah. Do I need that, like a hole in the  
13 head, right? Somebody comes to you and said  
14 the client wants you to do that and he  
15 designs. Do you like the way it looks?  
16 Absolutely. Is it better than these Chinese  
17 and Russians? Yes, it is. Can you give this  
18 guy what he's looking for? Sure. And you  
19 throw this out, this thing over here, what is  
20 this?  
21 Q. We're not making a lot of  
22 progress.  
23 A. That's good. I'm very happy for  
24 you.  
25 Q. Unfortunately.

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1 G. Hayden  
2 A. What's the next question?  
3 Q. If you could just focus on my  
4 exact questions. Is it possible that  
5 Mr. Calderon copied Triarch's drawings?  
6 MR. ISRAEL: Objection.  
7 MR. McKEE: Objection.  
8 A. You're asking my opinion?  
9 Q. I'm asking if it is possible?  
10 MR. McKEE: Anything is possible.  
11 Objection.  
12 A. You know, I mean, do you want to  
13 ask him that and save yourself all kinds of  
14 guesswork?  
15 Q. Again I just ask that you listen  
16 to the words of my question and specifically  
17 answer my question. Is it possible that Pepe  
18 Calderon copied Triarch drawings?  
19 MR. ISRAEL: Objection.  
20 MR. McKEE: Objection.  
21 A. I mean, he must have had access  
22 to this. Copied, I'm not really sure, but he  
23 must have seen those.  
24 Q. Mr. Calderon must have based his  
25 drawings on Triarch drawings?

<p style="text-align: right;">Page 214</p> <p>1 G. Hayden</p> <p>2 MR. McKEE: Objection.</p> <p>3 MR. ISRAEL: Objection, misstates</p> <p>4 testimony.</p> <p>5 Q. Is that correct?</p> <p>6 MR. McKEE: You either know or</p> <p>7 you don't know.</p> <p>8 MR. MANDEL: Objection, I object</p> <p>9 now. You're actually coaching the</p> <p>10 witness.</p> <p>11 MR. McKEE: Answer this question</p> <p>12 and we're taking a break.</p> <p>13 A. Just a minute.</p> <p>14 MR. McKEE: You're asking him to</p> <p>15 just go out on a whim.</p> <p>16 MR. MANDEL: I object. He is</p> <p>17 clearly interfering with the testimony.</p> <p>18 MR. McKEE: You're generating a</p> <p>19 worthless record because you're asking</p> <p>20 him to guess, because you're asking him</p> <p>21 things that he couldn't possibly know</p> <p>22 about.</p> <p>23 You've asked him this same</p> <p>24 question a dozen times already. He's</p> <p>25 given you the same answer over and over</p>	<p style="text-align: right;">Page 216</p> <p>1 G. Hayden</p> <p>2 last time. Isn't it the case that</p> <p>3 Mr. Calderon had to have access to Triarch</p> <p>4 drawings?</p> <p>5 MR. ISRAEL: Objection.</p> <p>6 MR. McKEE: Objection.</p> <p>7 A. You're going to have to ask</p> <p>8 somebody else what you think. I mean, I quite</p> <p>9 honestly don't know how much knowledge he has</p> <p>10 in relation to these drawings as compared to</p> <p>11 what he did. But all I can say to you is, I</p> <p>12 am interested in my end of the business, not</p> <p>13 his, not those people. Just my end, okay? If</p> <p>14 you come to me with a set of plans and say, do</p> <p>15 this, do I really care who put your hand on</p> <p>16 these documents? I couldn't care less how you</p> <p>17 did that.</p> <p>18 If the client says we have a</p> <p>19 designer coming in to you with a set of plans,</p> <p>20 please take it and make it happen for me, I'll</p> <p>21 do just that. Where the designer came up with</p> <p>22 his drawings, how the designer came about</p> <p>23 them, how much time he spent with the client</p> <p>24 to prepare this documents?</p> <p>25 MR. McKEE: We're taking a break.</p>
<p style="text-align: right;">Page 215</p> <p>1 G. Hayden</p> <p>2 again. And now you're badgering to try</p> <p>3 to get the answer that you want. Could</p> <p>4 he possibly have done it?</p> <p>5 MR. ISRAEL: And you're asking</p> <p>6 him to give expert testimony, because</p> <p>7 he wouldn't be answering based upon his</p> <p>8 own personal knowledge. What he's</p> <p>9 doing is rendering an opinion on his</p> <p>10 basis of being an architect.</p> <p>11 THE WITNESS: That's what I</p> <p>12 thought. He's doing exactly that.</p> <p>13 MR. ISRAEL: It is inappropriate.</p> <p>14 You're a fact witness.</p> <p>15 THE WITNESS: Right, you want me</p> <p>16 to interpret somebody else's drawings</p> <p>17 from an architect's perspective to</p> <p>18 see --</p> <p>19 MR. ISRAEL: No, he's not.</p> <p>20 MR. MANDEL: No more. I'm going</p> <p>21 to object to all the back and forth. I</p> <p>22 let it go on for several minutes now.</p> <p>23 It is obvious they are obstructing this</p> <p>24 deposition.</p> <p>25 Q. I'm going to ask the question one</p>	<p style="text-align: right;">Page 217</p> <p>1 G. Hayden</p> <p>2 MR. MANDEL: We're going to take</p> <p>3 a break when I'm done with this</p> <p>4 question. I don't consent to this</p> <p>5 break.</p> <p>6 MR. McKEE: You don't have to.</p> <p>7 You can get the judge on the line if</p> <p>8 you object, because I'm taking a break,</p> <p>9 because otherwise we'll be here all</p> <p>10 day. We're taking a break out in</p> <p>11 hallway.</p> <p>12 MR. MANDEL: So the record is</p> <p>13 clear, they're getting up.</p> <p>14 MR. ISRAEL: I'm going downstairs</p> <p>15 to get a piece of food because I</p> <p>16 haven't taken my lunch break yet.</p> <p>17 MR. MANDEL: This break was</p> <p>18 initiated by Mr. McKee and not by the</p> <p>19 witness. The witness didn't need a</p> <p>20 break. Mr. McKee was unhappy with the</p> <p>21 witness' testimony and therefore has</p> <p>22 taken him outside to continue coaching</p> <p>23 him.</p> <p>24 (Recess from 3:42 p.m. until</p> <p>25 3:55 p.m.)</p>

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<p style="text-align: right;">Page 218</p> <p>1 G. Hayden</p> <p>2 Q. Mr. Hayden, isn't it true that if</p> <p>3 you had known about Plaintiff's Exhibit 7, you</p> <p>4 would not have used Mr. Calderon's designs?</p> <p>5 A. No, I didn't say that. I didn't</p> <p>6 say that.</p> <p>7 Q. Even if you had known about</p> <p>8 Plaintiff's Exhibit 7 you would have gone</p> <p>9 ahead and used Mr. Calderon's drawings?</p> <p>10 A. I didn't say that either.</p> <p>11 Q. Let me ask you this question. If</p> <p>12 you had known about Plaintiff's Exhibit 7, at</p> <p>13 the time you were working on the project,</p> <p>14 would you have used Mr. Calderon's designs?</p> <p>15 A. I would have discussed it with</p> <p>16 the client and seen what the client wants to</p> <p>17 go with. What is it exactly that you're</p> <p>18 trying to do? You tell me that clearly and</p> <p>19 I'll make a decision for you in front of</p> <p>20 everybody.</p> <p>21 Q. That's what you would have said</p> <p>22 to the client?</p> <p>23 A. Absolutely, absolutely. What do</p> <p>24 you think? Of course.</p> <p>25 Q. If the client had told you</p>	<p style="text-align: right;">Page 220</p> <p>1 G. Hayden</p> <p>2 to me, and that designer gave me the drawings.</p> <p>3 That's all I got and that's all I used.</p> <p>4 If this conversation to make you</p> <p>5 comfortable was opened with me, the client and</p> <p>6 the designer, all the cards are on the table</p> <p>7 and then he wants me to make a decision,</p> <p>8 that's a situation that never happened. So I</p> <p>9 really can't tell you what I would do, or</p> <p>10 whether I would have proceeded or not. And if</p> <p>11 I didn't proceed in a matter that is</p> <p>12 accessible to me or anyone else, there would</p> <p>13 be no apartment today so --</p> <p>14 Q. I'm trying understand your last</p> <p>15 answer. Is it your testimony that you don't</p> <p>16 know what you would have done if while you</p> <p>17 were working on this project you had learned</p> <p>18 of the existence of Defendants' Exhibit 7, and</p> <p>19 you had also learned that Defendant's</p> <p>20 Exhibit 7 was prepared by Triarch and that</p> <p>21 Triarch had not been paid for they're work?</p> <p>22 MR. ISRAEL: Objection.</p> <p>23 MR. McKEE: Objection.</p> <p>24 A. I didn't say I wouldn't know what</p> <p>25 I would have done. I would say that we would</p>
<p style="text-align: right;">Page 219</p> <p>1 G. Hayden</p> <p>2 Triarch prepared these drawings and we have</p> <p>3 not paid Triarch, would you have been willing</p> <p>4 to use Mr. Calderon's design?</p> <p>5 MR. McKEE: Objection.</p> <p>6 A. Triarch, whatever his name is,</p> <p>7 did the drawings and we didn't pay him? Is</p> <p>8 that what you just said?</p> <p>9 Q. If that's what the client had</p> <p>10 told you, would you have gone ahead and used</p> <p>11 Mr. Calderon's designs?</p> <p>12 MR. McKEE: Objection.</p> <p>13 MR. ISRAEL: Objection.</p> <p>14 A. He's saying that the client would</p> <p>15 tell me that this architectural firm Triarch</p> <p>16 prepared the drawings. We did not pay Triarch</p> <p>17 but these drawings were given to you by the</p> <p>18 designer, would you use the drawings? I'm not</p> <p>19 seeing a relationship between the designer and</p> <p>20 Triarch.</p> <p>21 If the designer gave me the</p> <p>22 drawings and Triarch didn't get paid, I</p> <p>23 couldn't care less by either/or, quite</p> <p>24 honestly. Because you know what? Triarch</p> <p>25 does not exist in my book, was never mentioned</p>	<p style="text-align: right;">Page 221</p> <p>1 G. Hayden</p> <p>2 like to discuss that to make a wise decision</p> <p>3 with the parties involved.</p> <p>4 Q. What facts would you need to know</p> <p>5 to make a wise decision?</p> <p>6 A. I need the client to tell us that</p> <p>7 these are the drawings that you're working</p> <p>8 with, and nothing else effects you whatsoever.</p> <p>9 Nothing else effects you whatsoever.</p> <p>10 Q. What does that mean, these are</p> <p>11 the drawings you're working with?</p> <p>12 A. The designer's drawings. I mean,</p> <p>13 if you're asking me --</p> <p>14 Q. Let me rephrase the question.</p> <p>15 What facts would you need to know in order to</p> <p>16 make a decision as to whether you would use</p> <p>17 Mr. Calderon's drawings?</p> <p>18 MR. ISRAEL: Objection.</p> <p>19 MR. McKEE: Objection.</p> <p>20 A. I mean, two facts are on the</p> <p>21 table. The drawings were given to me to be</p> <p>22 used. That's all I needed to know.</p> <p>23 Really seriously. As to the</p> <p>24 existence of these documents, whether they</p> <p>25 directly impact on my office or not, the</p>

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<p style="text-align: right;">Page 222</p> <p>1 G. Hayden</p> <p>2 answer is absolutely not. I couldn't care</p> <p>3 less about those drawings. I have nothing to</p> <p>4 do with those drawings, never seen these</p> <p>5 drawings. Okay?</p> <p>6 Q. Is it okay for you to use stolen</p> <p>7 drawings if you don't know that they're</p> <p>8 stolen?</p> <p>9 MR. McKEE: Objection.</p> <p>10 MR. ISRAEL: Objection.</p> <p>11 A. Why are you saying they are</p> <p>12 stolen? What made you say that the papers,</p> <p>13 drawings are stolen drawings? What gave you</p> <p>14 that impression?</p> <p>15 You're making your own stories as</p> <p>16 we move along because you're a lawyer and I'm</p> <p>17 not. The truth of the matter is, look, those</p> <p>18 drawings given to me by a client are what you</p> <p>19 are now telling me these are stolen drawings</p> <p>20 from these people. How do you know that? How</p> <p>21 do I know that and if I did know about it --</p> <p>22 Q. Mr. Hayden, I'm going to move to</p> <p>23 strike that response.</p> <p>24 A. By all means.</p> <p>25 Q. I'm going to ask very specific</p>	<p style="text-align: right;">Page 224</p> <p>1 G. Hayden</p> <p>2 Q. Mr. Hayden, the last question I</p> <p>3 asked was earlier today, didn't you refer to</p> <p>4 stolen drawings in your testimony, and you</p> <p>5 just spoke for about a minute, where</p> <p>6 90 percent of which had nothing to do with</p> <p>7 that question.</p> <p>8 So I'm just going to ask you to</p> <p>9 focus very carefully on the words of my</p> <p>10 question and to just answer that question, all</p> <p>11 right?</p> <p>12 A. Okay.</p> <p>13 Q. Would you ever knowingly use</p> <p>14 stolen drawings?</p> <p>15 MR. McKEE: Objection.</p> <p>16 A. No, absolutely not. Absolutely</p> <p>17 not.</p> <p>18 Q. And if you knew that drawings</p> <p>19 were stolen you would not use them, correct?</p> <p>20 A. If I knew the drawings were</p> <p>21 stolen would I -- the whole concept of stolen</p> <p>22 drawings is bizarre. Do you understand how</p> <p>23 bizarre that is? I don't know care --</p> <p>24 Q. Do you understand the question --</p> <p>25 A. I do understand, nobody steals my</p>
<p style="text-align: right;">Page 223</p> <p>1 G. Hayden</p> <p>2 questions for the rest of the day. And I can</p> <p>3 guarantee you that we're going to have to</p> <p>4 continue for more days after this if you don't</p> <p>5 start to answer my questions.</p> <p>6 MR. ISRAEL: The questions you're</p> <p>7 asking are very very problematic. I</p> <p>8 haven't been saying anything, but I've</p> <p>9 got to tell you something. You should</p> <p>10 think very carefully about the</p> <p>11 questions you're asking because they're</p> <p>12 improper.</p> <p>13 Q. Earlier today you referred to</p> <p>14 stolen drawings, is that correct?</p> <p>15 MR. McKEE: No.</p> <p>16 A. No, I never referred to stolen</p> <p>17 drawings. I said if somebody steals</p> <p>18 something, okay, and gives it to me and it is</p> <p>19 stolen, if you don't know it is stolen, then</p> <p>20 you'll accept it. If you know it is stolen</p> <p>21 you may want to raise the issue, how did you</p> <p>22 end up with it?</p> <p>23 But why are you doubting the</p> <p>24 ability of this designer and you keep saying</p> <p>25 he stole them?</p>	<p style="text-align: right;">Page 225</p> <p>1 G. Hayden</p> <p>2 drawings from me either. If I find somebody</p> <p>3 who stole somebody's drawings from me, it</p> <p>4 would get me even more upset. People stealing</p> <p>5 my own drawings, then stolen drawings being</p> <p>6 handed over to the me. It is very upsetting</p> <p>7 either/or.</p> <p>8 But now you're sitting around</p> <p>9 accusing this designer of stealing the</p> <p>10 drawings and you're telling me I used his --</p> <p>11 intentionally used his drawings making me a</p> <p>12 criminal. That's not a very nice thing to</p> <p>13 say, is it?</p> <p>14 Q. Are you listen to the words of my</p> <p>15 question?</p> <p>16 A. No, I'm listening, I'm just not</p> <p>17 liking it.</p> <p>18 Q. You are listening, but you're</p> <p>19 refusing to answer my question?</p> <p>20 MR. ISRAEL: Objection.</p> <p>21 MR. McKEE: Objection.</p> <p>22 A. You're accusation of the designer</p> <p>23 being a thief and me assisting the thief and</p> <p>24 being a bigger thief, that's not a very nice</p> <p>25 thing to say to me at all.</p>

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<p style="text-align: right;">Page 226</p> <p>1 G. Hayden</p> <p>2 Q. Did Mr. Calderon steel Triarch's</p> <p>3 drawings?</p> <p>4 A. No, of course, not.</p> <p>5 Q. You are certain?</p> <p>6 MR. McKEE: Objection.</p> <p>7 MR. ISRAEL: Objection.</p> <p>8 A. I would say, of course not. And</p> <p>9 if he did, that's his problem, not mine.</p> <p>10 Okay?</p> <p>11 Q. Is it possible Mr. Calderon</p> <p>12 created his drawings without ever seeing</p> <p>13 Triarch's drawings?</p> <p>14 A. I'm not really sure how he got</p> <p>15 some sort of connection to those drawings.</p> <p>16 Q. I'll ask that question again. Is</p> <p>17 it possible Mr. Calderon created his drawings</p> <p>18 without having seen Triarch's drawings?</p> <p>19 MR. McKEE: Objection.</p> <p>20 MR. ISRAEL: Objection.</p> <p>21 A. You know that answer. So I'm not</p> <p>22 really sure what he did and how much of a</p> <p>23 possibility there exists for this designer to</p> <p>24 produce these documents. Is it possible that</p> <p>25 those drawings given to him by somebody else</p>	<p style="text-align: right;">Page 228</p> <p>1 G. Hayden</p> <p>2 can't tell you what he did. I am not in his</p> <p>3 office. I don't even know the guy. First</p> <p>4 thing I said to you, I don't know the</p> <p>5 designer's mental capability, and I'm sure you</p> <p>6 don't remember that. But you remember about</p> <p>7 the theft because --</p> <p>8 MR. MANDEL: Move to strike.</p> <p>9 This is all not responsive.</p> <p>10 A. It's not non responsive. It is</p> <p>11 responsive. I am not aware of this designer's</p> <p>12 mental capability in terms of storing images</p> <p>13 that he had looked at, interpreted on his own</p> <p>14 down the line, and produced a document similar</p> <p>15 to that. How do I know?</p> <p>16 Q. Is it possible that Mr. Calderon</p> <p>17 created his drawings without ever having seen</p> <p>18 Triarch's drawings?</p> <p>19 MR. ISRAEL: Objection.</p> <p>20 MR. McKEE: Objection.</p> <p>21 A. How do you know it is not</p> <p>22 reversed by the way? Did you ever think of</p> <p>23 that?</p> <p>24 Q. One possible scenario, is it your</p> <p>25 testimony, that one possible scenario is that</p>
<p style="text-align: right;">Page 227</p> <p>1 G. Hayden</p> <p>2 like the client maybe? Is that possible? Or</p> <p>3 you don't see that at all?</p> <p>4 Q. There are similarities between</p> <p>5 Triarch's drawings and Mr. Calderon's</p> <p>6 drawings, are there not?</p> <p>7 A. Yes.</p> <p>8 Q. Is it your testimony that it is</p> <p>9 possible that those similarities are a pure</p> <p>10 coincidence?</p> <p>11 MR. McKEE: Objection.</p> <p>12 MR. ISRAEL: Objection.</p> <p>13 MR. McKEE: You can answer it.</p> <p>14 A. It can be both, but it is</p> <p>15 possible.</p> <p>16 Q. It is very unlikely that those</p> <p>17 similarities between those two sets of</p> <p>18 drawings are coincidence, correct?</p> <p>19 MR. ISRAEL: Objection.</p> <p>20 MR. McKEE: Objection.</p> <p>21 A. I mean, it is hard to say really.</p> <p>22 I mean, what he did, how he -- that type of</p> <p>23 drawing form, as I said; it could be</p> <p>24 photographic memory. I mean, if this guy</p> <p>25 looked at something he could probably -- I</p>	<p style="text-align: right;">Page 229</p> <p>1 G. Hayden</p> <p>2 Triarch copied Mr. Calderon?</p> <p>3 A. I just said, did you ever think</p> <p>4 of the reverse?</p> <p>5 Q. I understand. But sometimes</p> <p>6 sarcasm, when you ask questions --</p> <p>7 A. It is not sarcasm.</p> <p>8 Q. -- it doesn't come across on the</p> <p>9 record. I was just trying to reformulate what</p> <p>10 I thought was your answer in my own words to</p> <p>11 see if I understood your answer.</p> <p>12 A. If two drawings are very very</p> <p>13 similar, how do you know it is not reversed?</p> <p>14 Q. Let's assume for a minute that</p> <p>15 Triarch created its drawings before</p> <p>16 Mr. Calderon created his drawings. With that</p> <p>17 assumption in place, is it possible that</p> <p>18 Mr. Calderon created his drawings without ever</p> <p>19 having seen Triarch's drawings?</p> <p>20 MR. ISRAEL: Objection.</p> <p>21 MR. McKEE: Objection.</p> <p>22 A. Or the reverse. You know they</p> <p>23 are similar. Who did it before? You know</p> <p>24 what? I wasn't there in either/or. No idea.</p> <p>25 All I can say to you, and I'm going to say it</p>

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<p style="text-align: right;">Page 230</p> <p>1 G. Hayden</p> <p>2 for the last time, I was handed a set of</p> <p>3 drawings via fax, e-mail, and in person from</p> <p>4 someone named Pepe. Isn't that clear for you</p> <p>5 to understand that I did not do anything wrong</p> <p>6 by accepting a set of drawings from a</p> <p>7 designer?</p> <p>8 Look, the other thing I want to</p> <p>9 tell you for sure that you should bare that in</p> <p>10 mind, I do not accept the work of another</p> <p>11 architect under any circumstances. And that's</p> <p>12 with all due respect to the Frank Lloyd</p> <p>13 Wright, right? And maybe that's an exception.</p> <p>14 I am not going to sit there and</p> <p>15 take stuff like this and accept it and make</p> <p>16 those my own drawings. If it is interior</p> <p>17 designer and I said that from the beginning,</p> <p>18 the answer is absolutely, no problem. Another</p> <p>19 architect can take his drawings some place</p> <p>20 else.</p> <p>21 And I'm very clear for 27 years.</p> <p>22 None of that stuff is acceptable in my office,</p> <p>23 none of it. You're telling me, is it possible</p> <p>24 that the designer copied and then gave it to</p> <p>25 you, so therefore you had copied the architect</p>	<p style="text-align: right;">Page 232</p> <p>1 G. Hayden</p> <p>2 this is a cabinet drawing. Okay, so you may</p> <p>3 want to put a drawing out.</p> <p>4 Q. Is there any lighting on this</p> <p>5 plan page A-11?</p> <p>6 A. It is not a plan. They are</p> <p>7 elevations, there is no lighting anywhere. It</p> <p>8 is called a reflective ceiling plan. For</p> <p>9 library elevations you have to have reflective</p> <p>10 ceiling plan or lighting plan. That would</p> <p>11 have lighting for you. Library elevations is</p> <p>12 not going to show you lighting.</p> <p>13 Q. Do you see a reflective ceiling</p> <p>14 plan on here anywhere?</p> <p>15 A. It should be here. On the list,</p> <p>16 electrical.</p> <p>17 Q. A-2?</p> <p>18 A. A-2 is good. Probably it would</p> <p>19 be referring to one part of the space not the</p> <p>20 whole space, for the lights.</p> <p>21 Q. Am I correct that earlier it was</p> <p>22 your testimony that you decided where the</p> <p>23 lights would be in the library, is that</p> <p>24 correct?</p> <p>25 A. Yeah, that's true.</p>
<p style="text-align: right;">Page 231</p> <p>1 G. Hayden</p> <p>2 indirectly? Well, you know what, I have bad</p> <p>3 news for you, no, it is not possible. It is</p> <p>4 absolutely not possible that I would interpret</p> <p>5 another architect's drawings on my own under</p> <p>6 my own seal and signature, no, it is not.</p> <p>7 Very damaging to me and my office and it is</p> <p>8 not right.</p> <p>9 Q. Knowing everything you know now,</p> <p>10 if you can go back in time, is there anything</p> <p>11 you would do differently on this project?</p> <p>12 MR. McKEE: Objection.</p> <p>13 A. Or anything that I've ever done</p> <p>14 in my life, the answer is, no. Repeat my</p> <p>15 whole life the whole time it would be exactly</p> <p>16 identical. A to Z.</p> <p>17 Q. Turning your attention to</p> <p>18 page A-17 of Defendants' Exhibit 7, is there</p> <p>19 any lighting shown on this page?</p> <p>20 A. You said lighting, right?</p> <p>21 Q. Yes.</p> <p>22 A. Why should I make cabinets, to</p> <p>23 see lights on cabinet? The cabinet has</p> <p>24 lights, it would be underneath the shelves.</p> <p>25 I'm not seeing -- this is not a lighting plan</p>	<p style="text-align: right;">Page 233</p> <p>1 G. Hayden</p> <p>2 Q. And is there lighting in this</p> <p>3 plan in the library?</p> <p>4 A. Yeah there's 1, 2, 3, 4, 5.</p> <p>5 MR. McKEE: Library.</p> <p>6 A. This is the library. It is</p> <p>7 upside down you have it? You're right, the</p> <p>8 orientation is different. Is that lights in</p> <p>9 the library? Yeah, it has 1, 2, 3, 4, 5, 6,</p> <p>10 7, 8, 9. It is not the same soffits, you see</p> <p>11 here.</p> <p>12 Q. The soffits are different?</p> <p>13 A. Yeah.</p> <p>14 Q. From A-2 to your drawing?</p> <p>15 A. Yes, soffits are not the same.</p> <p>16 Q. How are the soffits different?</p> <p>17 A. Take my drawings out and find</p> <p>18 out. It is not the same soffit. So the</p> <p>19 lighting in this reflective ceiling plan</p> <p>20 cannot match mine because it is just not the</p> <p>21 same, right? I mean, obviously not.</p> <p>22 Why are you referring to that? I</p> <p>23 never seen these. Give me Pepe's drawings.</p> <p>24 You see they're not the same.</p> <p>25 Q. How are the soffits different in</p>

<p style="text-align: right;">Page 234</p> <p>1 G. Hayden</p> <p>2 those two sets of drawings?</p> <p>3 A. How?</p> <p>4 Q. So the record is clear, you're</p> <p>5 comparing your amended plan with Defendant's</p> <p>6 Exhibit 7.</p> <p>7 A. The amended plan is the only plan</p> <p>8 that has the soffits, okay. Now looking at it</p> <p>9 the right way.</p> <p>10 Why are you comparing to this?</p> <p>11 Why don't you compare it to Pepe's drawings.</p> <p>12 Q. Please just answer the questions,</p> <p>13 Mr. Hayden.</p> <p>14 A. Do you want me to get a</p> <p>15 correlation, a relationship between my</p> <p>16 drawings and his drawings right here?</p> <p>17 (Question read.)</p> <p>18 A. The soffit here, soffit here, the</p> <p>19 soffit, soffit, there's a soffit. I must say</p> <p>20 they're very close, except here you have two</p> <p>21 lights and here you have 1, 2, 3, 4. Here you</p> <p>22 have two lights, and you have 1, 2, 3, 4, 5.</p> <p>23 You have 1, 2, 3, 4, 5 lights and you have</p> <p>24 three lights. So while the soffits could be</p> <p>25 similar, the layout of the lighting is totally</p>	<p style="text-align: right;">Page 236</p> <p>1 G. Hayden</p> <p>2 Q. What does the term mean to you?</p> <p>3 A. It means he who rubber stamps</p> <p>4 somebody else's drawings or an architect with</p> <p>5 a set of working drawings on behalf of the</p> <p>6 designers, like someone like Robert Stern who</p> <p>7 was a very good architect and does not do work</p> <p>8 in drawings. And he hires designers, other</p> <p>9 architects to do the construction documents.</p> <p>10 And they become the architect of record and he</p> <p>11 stays the architect. So he cleans his hands</p> <p>12 from the mess, that's what architect of record</p> <p>13 does, generally speaking. An architect of the</p> <p>14 record is someone who is hired just to</p> <p>15 expedite for the Buildings Department and</p> <p>16 that's it.</p> <p>17 Q. Is an architect of record the</p> <p>18 same thing as a filing architect?</p> <p>19 A. Well, now you're saying something</p> <p>20 else.</p> <p>21 Q. What's a filing architect?</p> <p>22 A. That's literally someone who just</p> <p>23 files plans and not stamp them. So what he</p> <p>24 does, analyzes those drawings from like</p> <p>25 building codes, zoning point of view, and</p>
<p style="text-align: right;">Page 235</p> <p>1 G. Hayden</p> <p>2 different. The type of light fixture is also</p> <p>3 different.</p> <p>4 You see, this is the square-ish,</p> <p>5 kind of recessed high hat while this would be</p> <p>6 the round and the intensity of lighting is</p> <p>7 different now. This is not going to give you</p> <p>8 the same intensity of this in terms of what's</p> <p>9 reflective. So it's not the same. It is not</p> <p>10 the same. They both have soffits, yes.</p> <p>11 Plus they have no switches</p> <p>12 either, so I don't know how you turn them on</p> <p>13 and off.</p> <p>14 Q. Let's set aside these two</p> <p>15 exhibits for now.</p> <p>16 Were you suppose to be the</p> <p>17 architect of record on this case?</p> <p>18 MR. ISRAEL: Objection.</p> <p>19 MR. McKEE: Objection.</p> <p>20 A. I'm the only architect, record or</p> <p>21 no record. I'm the only architect.</p> <p>22 Q. Have you heard the term architect</p> <p>23 of record before?</p> <p>24 A. I don't like the term, but the</p> <p>25 answer is, yes.</p>	<p style="text-align: right;">Page 237</p> <p>1 G. Hayden</p> <p>2 takes the documents -- I do all this, by the</p> <p>3 way, in my office. I don't know if you're</p> <p>4 aware of it, I told you that before, every</p> <p>5 single day, so we're fully aware of what these</p> <p>6 rules and regulations are all about.</p> <p>7 Q. So am I correct in understanding</p> <p>8 your testimony that you were not the architect</p> <p>9 of record in this case but just an architect?</p> <p>10 MR. McKEE: Objection.</p> <p>11 A. Architect of the whole thing.</p> <p>12 I'm responsible, you see my agreement, in</p> <p>13 designing it, putting it through the Buildings</p> <p>14 Department, getting you through the building</p> <p>15 management, making sure you get the permits</p> <p>16 you need, making sure it gets built. That's</p> <p>17 an architect. That's what a good architect</p> <p>18 does.</p> <p>19 Q. Was there a design architect on</p> <p>20 this project?</p> <p>21 A. No, no.</p> <p>22 Q. Did you do any construction</p> <p>23 management on this project?</p> <p>24 A. No.</p> <p>25 Q. Did you file a third set of plans</p>

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<p style="text-align: right;">Page 238</p> <p>1 G. Hayden</p> <p>2 with the Departments of Buildings?</p> <p>3 A. Yes, I did.</p> <p>4 MR. MANDEL: Off the record.</p> <p>5 (Discussion off the record.)</p> <p>6 Q. Your answer was, no, you didn't</p> <p>7 file any other plans?</p> <p>8 A. The answer was, yes.</p> <p>9 Q. What other plans did you file</p> <p>10 with the Department of Buildings?</p> <p>11 A. The same set, just another</p> <p>12 amendment.</p> <p>13 Q. Why did you file another</p> <p>14 amendment?</p> <p>15 A. Because there were changes made.</p> <p>16 Once there are changes made you need to file</p> <p>17 an amendment. Changes are minor, but they are</p> <p>18 circled or bubbled. They look old. How you</p> <p>19 got these hands on these drawings is beyond</p> <p>20 me, quite honestly. Where did you get all</p> <p>21 these?</p> <p>22 (Plaintiff's Exhibit 11, a</p> <p>23 document Bates stamped GH 301 was</p> <p>24 marked for identification, as of this</p> <p>25 date.)</p>	<p style="text-align: right;">Page 240</p> <p>1 G. Hayden</p> <p>2 which appears to be a door to remain?</p> <p>3 A. Existing door to remain, but the</p> <p>4 door to remain was double-acting, it opened in</p> <p>5 two directions, that is not -- you can't do</p> <p>6 that. No, now I have to replace the</p> <p>7 double-acting door with a single opening, one</p> <p>8 direction only, so that changed.</p> <p>9 Q. And about here, is there a door</p> <p>10 in the kitchen?</p> <p>11 A. Yeah, that door needs to be</p> <p>12 changed from a wood door to a fireproof</p> <p>13 self-closing because that's what I say.</p> <p>14 Q. And is this a change here?</p> <p>15 A. Yeah, two doors to the dining</p> <p>16 room are gone. Now the space is open like</p> <p>17 this, okay? It is open. There's more</p> <p>18 contrary to what he liked beforehand, every</p> <p>19 space is subdivided and closed. Now he's</p> <p>20 saying it is better to leave it open so it</p> <p>21 looks like a bigger apartment. It is big</p> <p>22 enough, believe me, with the doors closed or</p> <p>23 open.</p> <p>24 Q. What was the change here?</p> <p>25 A. The new door has to be 1-1/2 hour</p>
<p style="text-align: right;">Page 239</p> <p>1 G. Hayden</p> <p>2 Q. I have handed you what has been</p> <p>3 marked as Exhibit 11. Do you recognize that</p> <p>4 document?</p> <p>5 A. Yes.</p> <p>6 Q. What is it?</p> <p>7 A. It is an amended plan dated</p> <p>8 November 16th, 2011, the last set that was</p> <p>9 filed with the Buildings Department to reflect</p> <p>10 exactly what was built, as built. This is as</p> <p>11 built after all this stuff. This is what we</p> <p>12 ended up with. Amazing, huh?</p> <p>13 Q. What are the differences between</p> <p>14 Plaintiff's Exhibit 11 and the amended set of</p> <p>15 plans that you filed earlier?</p> <p>16 A. Anything that is bubbled, do you</p> <p>17 see that? This bubble, that means there is a</p> <p>18 wall that divided the living room from the</p> <p>19 dining room. That wall is gone with the</p> <p>20 exception of where the fireplace is located,</p> <p>21 which I know that portion, this wall's gone</p> <p>22 that wall gone, so you can walk around the</p> <p>23 fireplace as many times as you like and you</p> <p>24 can do just that.</p> <p>25 Q. Understood. How about here,</p>	<p style="text-align: right;">Page 241</p> <p>1 G. Hayden</p> <p>2 fireproof, it is a fireproof door. It is</p> <p>3 instead of regular wood doors it is a fire</p> <p>4 door.</p> <p>5 Q. What change is made here?</p> <p>6 A. Let's see. Just a smoke</p> <p>7 detector, carbon monoxide detector should be</p> <p>8 put in there.</p> <p>9 Q. And for the record, it is in the</p> <p>10 library?</p> <p>11 A. Yeah, in the library.</p> <p>12 Q. What change is made here in this</p> <p>13 corner? Is that a change to the door?</p> <p>14 A. I'm thinking. That change to the</p> <p>15 door or a change on the soffit, no matter what</p> <p>16 that change is, that area is probably pretty</p> <p>17 minor. We didn't say much about that. But</p> <p>18 that's what's built. What's the most part is</p> <p>19 if the walls are -- if it really existing</p> <p>20 anymore, you should show these walls as being</p> <p>21 gone. That's it.</p> <p>22 Q. And what change is made here? Is</p> <p>23 this a change to the doors?</p> <p>24 A. I think so, yeah, just to show</p> <p>25 exactly what is built based on the final</p>

<p style="text-align: right;">Page 242</p> <p>1 G. Hayden</p> <p>2 inspection of what was actually built versus</p> <p>3 what's proposed. This is it.</p> <p>4 Q. And those are doors to the master</p> <p>5 bathroom, correct?</p> <p>6 A. Yeah, yeah.</p> <p>7 Q. And here there was another change</p> <p>8 to a fire door and this is a door to hallway</p> <p>9 number 2?</p> <p>10 A. Yeah.</p> <p>11 Q. Was any designer involved in</p> <p>12 making any of the changes contained on</p> <p>13 Plaintiff's Exhibit 11?</p> <p>14 A. No, not anymore. No, the</p> <p>15 designer was gone a long time ago. This was</p> <p>16 done very recently. As I said, the designer,</p> <p>17 once he handed me that set of drawings, he was</p> <p>18 gone for good. So beyond that point it is</p> <p>19 really just me. That's it.</p> <p>20 Q. Were the changes that are</p> <p>21 described on Plaintiff's Exhibit 11 made</p> <p>22 during the construction phase of the project?</p> <p>23 A. At the end, towards the very very</p> <p>24 end while, in fact, you need to make sure that</p> <p>25 your plan is not reflected as built. I made a</p>	<p style="text-align: right;">Page 244</p> <p>1 G. Hayden</p> <p>2 paperwork reflecting plumbing changes, number</p> <p>3 of fixtures that have been changed,</p> <p>4 description of what's changed on paperwork,</p> <p>5 format of drawings themselves, and this is it.</p> <p>6 Q. Were you terminated at any point</p> <p>7 by the client on this project?</p> <p>8 A. Or any other project in my life,</p> <p>9 the answer is no.</p> <p>10 Q. You've never ever been terminated</p> <p>11 from any project?</p> <p>12 A. No, never.</p> <p>13 Q. Was there any point in time when</p> <p>14 you sort of stopped working on the project on</p> <p>15 an active basis?</p> <p>16 A. No, no, not at all.</p> <p>17 Q. You said you were not involved in</p> <p>18 construction management, is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. So once they began working on</p> <p>21 construction, did you continue working on a</p> <p>22 regular basis or was it sort of an inactive</p> <p>23 period of time?</p> <p>24 MR. McKEE: Project.</p> <p>25 A. Project.</p>
<p style="text-align: right;">Page 243</p> <p>1 G. Hayden</p> <p>2 decision that I need to look at it just to the</p> <p>3 make sure that nothing changed. And if there</p> <p>4 is a change then I would file an amendment.</p> <p>5 The reason why you would do that</p> <p>6 is because you need to close the job at the</p> <p>7 end, it has to be closed.</p> <p>8 Any time you file an application</p> <p>9 you have to close it. You are the only one</p> <p>10 that can close it. But you're not going to</p> <p>11 close it until it matches. If you have a</p> <p>12 document like that reflecting exactly what's</p> <p>13 built, then you sign off on the job. It is</p> <p>14 closed.</p> <p>15 Q. Did you have to go back to the</p> <p>16 co-op board to approve any of these things?</p> <p>17 A. Just send them copies.</p> <p>18 Q. And other than the original set</p> <p>19 of plans that you filed with the Department of</p> <p>20 Buildings, your amended set of plans that you</p> <p>21 filed with the Department of Buildings, and</p> <p>22 this document Plaintiff's Exhibit 11, did you</p> <p>23 file any other documents with the Department</p> <p>24 of Buildings?</p> <p>25 A. I would say paperwork like a PA,</p>	<p style="text-align: right;">Page 245</p> <p>1 G. Hayden</p> <p>2 Q. Project.</p> <p>3 A. It is not that. It is just</p> <p>4 construction management making you the</p> <p>5 contractor and then you had to build at the</p> <p>6 same time. While site visits during</p> <p>7 construction the architects do. So I don't</p> <p>8 live very far, so during sometimes going to</p> <p>9 the office on the west side and I'm on the</p> <p>10 east side, pass by this building all the time.</p> <p>11 So periodically, you know, I thought it would</p> <p>12 be nice to look.</p> <p>13 So this only happened twice or</p> <p>14 three times during construction and that's it.</p> <p>15 I didn't go there every day. It is not called</p> <p>16 for anyway.</p> <p>17 Q. Were you preparing any drawings</p> <p>18 during the construction phase of the project?</p> <p>19 A. No, no, just to see the extent of</p> <p>20 the progress, to see what it actually does</p> <p>21 look like, make sure this is like -- it is not</p> <p>22 too late, it can be remedied maybe, a wall can</p> <p>23 move over. Just look, it doesn't hurt.</p> <p>24 Q. Did you prepare any drawings</p> <p>25 between your amended set of drawings, which I</p>

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<p style="text-align: right;">Page 246</p> <p>1 G. Hayden</p> <p>2 believe are Defendant's Exhibit 8, and your</p> <p>3 second amended set of drawings which are</p> <p>4 Plaintiff's Exhibit 11?</p> <p>5 A. No, no, not at all, no.</p> <p>6 I have to take it back. I did</p> <p>7 draw up library shelving units and sent it to</p> <p>8 Italy so they can make the bookcases based on</p> <p>9 the client's request. He asked me to go and</p> <p>10 measure the library walls and give us the</p> <p>11 plans in centimeters instead of feet and</p> <p>12 inches. It is not easy, but I can do it. So</p> <p>13 I said, fine.</p> <p>14 So we went back and the walls</p> <p>15 were like partially up and framed whatever, we</p> <p>16 took measurements, and put the shelving units</p> <p>17 together, and just sent it to Garry, I guess,</p> <p>18 who sent it to Italy to make the bookcases in</p> <p>19 Italy. I did that, yeah. But that's the only</p> <p>20 document that wouldn't have been included in</p> <p>21 the construction of documents. Just to show</p> <p>22 the library layout. So that's it.</p> <p>23 Q. Throughout the day today you've</p> <p>24 testified about a lot of comments and ideas</p> <p>25 that you received from Mr. Voronchenko over</p>	<p style="text-align: right;">Page 248</p> <p>1 G. Hayden</p> <p>2 Q. Can we go back to Exhibit 10</p> <p>3 again?</p> <p>4 I am showing you what has been</p> <p>5 marked as Plaintiff's Exhibit 10. I'm</p> <p>6 turning to the third page of that document.</p> <p>7 Am I correct in understanding that that's a</p> <p>8 picture -- withdrawn. What is this page?</p> <p>9 A. It is a rendering, it is a 3-D</p> <p>10 modeling or 3-D rendering of the foyer and the</p> <p>11 living room in the background.</p> <p>12 Q. Did you use this in any way in</p> <p>13 preparing --</p> <p>14 A. You asked me that before and I</p> <p>15 said, no.</p> <p>16 Q. Are the preparation of renderings</p> <p>17 a typical part of your process when you</p> <p>18 undertake a gut renovation?</p> <p>19 A. I'd like to say yes to that,</p> <p>20 yeah. I'd like to say yes to that. You can</p> <p>21 ask me why don't you do it for your client?</p> <p>22 I'd like to say yes, I like to do those.</p> <p>23 But you know, is it necessary?</p> <p>24 Or with an elevation to the job, just as well</p> <p>25 as a rendering would do the job. It depends</p>
<p style="text-align: right;">Page 247</p> <p>1 G. Hayden</p> <p>2 the course of the project. Other than what</p> <p>3 you already testified to here today, did</p> <p>4 Mr. Voronchenko have any other comments or</p> <p>5 criticism of the project?</p> <p>6 MR. ISRAEL: Objection.</p> <p>7 A. And if he did, he wouldn't tell</p> <p>8 me. The answer is, no, other than what he</p> <p>9 said from the beginning, the initial meetings</p> <p>10 which is like I said, one or two. Never spoke</p> <p>11 to me on the phone. He certainly didn't call</p> <p>12 me from Russia, so I don't know.</p> <p>13 Q. Did Mr. Braderman have any</p> <p>14 comments or criticisms of the project, other</p> <p>15 than what you've already testified to here</p> <p>16 today?</p> <p>17 MR. ISRAEL: Objection.</p> <p>18 A. Not to my knowledge, no, not at</p> <p>19 all.</p> <p>20 Q. Did anyone else associated with</p> <p>21 Medallion have any comments or criticisms on</p> <p>22 the project that you haven't already testified</p> <p>23 here to today?</p> <p>24 MR. ISRAEL: Objection.</p> <p>25 A. Not to my knowledge, not at all.</p>	<p style="text-align: right;">Page 249</p> <p>1 G. Hayden</p> <p>2 on the client. If the client doesn't see it,</p> <p>3 doesn't understand elevation, then it is fine.</p> <p>4 Q. So in the past you have prepared</p> <p>5 3-D renderings?</p> <p>6 A. I've prepared lots of those,</p> <p>7 sure.</p> <p>8 Q. You do those in-house or do you</p> <p>9 have a vendor?</p> <p>10 A. We do it right here in the</p> <p>11 office, right here.</p> <p>12 Q. Are they very time consuming?</p> <p>13 A. Well, they take memory of the</p> <p>14 computer, so computer memory starts to slow</p> <p>15 down on you. So if you can do it quickly,</p> <p>16 yeah, you can do it quickly, yeah.</p> <p>17 Q. Would you charge extra for doing</p> <p>18 renderings?</p> <p>19 A. No, not at all. I just want you</p> <p>20 to understand what you're getting from me.</p> <p>21 That's a method of being in the clear with the</p> <p>22 client that I showed it to you and you said</p> <p>23 fine, okay.</p> <p>24 Q. I'm going to ask you, why don't</p> <p>25 you do renderings for every project?</p>

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2 A. I do and I don't. It depends.

3 The clients are -- well, I don't know, I mean,

4 I do have renderings if you want to see them,

5 I'll send them to you.

6 Q. That's all right. You didn't do

7 any renderings for this project?

8 A. No, no, it is not necessary. The

9 elevations show all the -- specifically for

10 this kind of interior project you really don't

11 need that. That's trying to sell you a

12 product. This is trying to sell your

13 business. My business is already sold.

14 Q. Other than the renderings in

15 Plaintiff's Exhibit 10, did you receive any

16 other renderings on this project?

17 A. No, no, no. This is the book

18 that I received, no.

19 Q. I am showing you what has been

20 marked as Plaintiff's Exhibit 4. Have you

21 ever seen this document before?

22 A. Judging from the cover sheet, no,

23 but can I open it?

24 Q. Please do.

25 A. Okay. No, I never saw that.

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2 Q. All right.

3 A. Never saw that. I can tell you

4 very quickly no, I never saw that. No, I

5 never saw that. Kind of interesting though.

6 Thank you very much.

7 Q. You've seen the final library,

8 correct? The as-built library?

9 MR. McKEE: The question is, have

10 you seen the completed library?

11 A. Yes, yes, I have.

12 Q. I'm turning your attention to

13 the, I believe, the back of the fourth and the

14 front of the fifth pages in Defendant's

15 Exhibit 4. Do those three dimensional

16 renderings bear any resemblance to the library

17 as built?

18 A. Can I ask you where did these

19 come from or not necessarily?

20 Q. Sure, they came from Triarch.

21 A. Oh, they did.

22 MR. McKEE: Answer the question

23 as is posed, if you can.

24 A. Do they have similarity to what

25 we have in the field, is what you're asking?

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1 G. Hayden

2 Q. As-built?

3 A. Close, very close, yeah.

4 Q. Turning your attention to the

5 next page which are renderings of --

6 A. The bedroom.

7 Q. -- the bedroom, do these

8 renderings bear any resemblance to the master

9 bedroom as built?

10 MR. ISRAEL: Objection.

11 A. Quite honestly, a lot less than

12 yes. I would say to anyone, if you have the

13 floor plan and you have the elevations, you

14 can create a rendering that reflects the plans

15 and the elevation. If they are contradictory

16 to one another, then you're not doing it.

17 Bottom line is, is this horrible light fixture

18 is certainly not there. I mean, the drapes

19 are not there. I mean, I don't know. If you

20 ever want to do this, I should have made that

21 very clear, because this is not good. The

22 answer to that is, I have not seen the bedroom

23 with all this junk in it like that, in this so

24 called Art Deco style, because they are not

25 there. I didn't see that on the bedroom.

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1 G. Hayden

2 But I can tell you these doors

3 are not the same either. Definitely not the

4 same, the chandelier here is certainly not the

5 same. So I'm not understanding the connection

6 to rendering and the final product.

7 Q. Are there any similarities?

8 A. No, no, no, not at all.

9 Q. Now I'm showing you renderings of

10 a potential foyer. Are there any similarities

11 between these renderings and the foyer as

12 built?

13 A. Day and night, not even close.

14 Not even close.

15 Q. Are there any similarities

16 whatsoever?

17 A. No, not at all.

18 Q. And is this the living room?

19 A. Your guess is as good as mine.

20 Yeah, you're looking at the wall where the TV

21 is, but then I'm not really seeing that.

22 Number 1, we never have wall consoles like

23 that. Number 2, we never broke it down in

24 this kind of orientation where you have the

25 upper part, lower part identical, and the

<p style="text-align: right;">Page 254</p> <p>1 G. Hayden</p> <p>2 center part is bigger. The answer is not</p> <p>3 really, not even close.</p> <p>4 Q. How about the perspective of the</p> <p>5 living room, any similarity there?</p> <p>6 A. No, the library is pretty close,</p> <p>7 I can tell you that much, yeah. The bedroom</p> <p>8 is not even close. I think it looks like a</p> <p>9 lobby in the office building. No.</p> <p>10 Q. Do you know who Tempora Mobili</p> <p>11 is, T E M P O R A, M O B I L I?</p> <p>12 A. I ran into those guys at the</p> <p>13 building once. They are from Italy, they are</p> <p>14 the ones that make the panels, I assume.</p> <p>15 Mobili stands for obviously furniture.</p> <p>16 Q. Have you had any communications</p> <p>17 with Tempora Mobili?</p> <p>18 A. No, I did not.</p> <p>19 Q. I've asked you questions about</p> <p>20 Triarch, Mr. Calderon, Tempora Mobili,</p> <p>21 Libracon, and Dragan earlier today. Other</p> <p>22 than those five persons or entities, did you</p> <p>23 have communications with any other designers</p> <p>24 or design professionals or architects or</p> <p>25 manufacturers over the course of this project?</p>	<p style="text-align: right;">Page 256</p> <p>1 G. Hayden</p> <p>2 A. What do you mean? I'm the</p> <p>3 architect, I just said that to you.</p> <p>4 Q. Withdrawn. Was there an</p> <p>5 expeditor hired on this project?</p> <p>6 A. I told you, Cecilia worked in my</p> <p>7 office and she does that every single day. We</p> <p>8 do a lot of filing, not just apartments.</p> <p>9 Q. Other than Cecilia, did anyone do</p> <p>10 any expediting work on the project?</p> <p>11 A. No, no, that's it.</p> <p>12 Q. Do any engineers do any work on</p> <p>13 this project?</p> <p>14 A. No.</p> <p>15 Q. When you received Mr. Calderon's</p> <p>16 designs, did you make any inquiry into whether</p> <p>17 his designs have been copied from any other</p> <p>18 person?</p> <p>19 MR. ISRAEL: Objection.</p> <p>20 MR. McKEE: Objection.</p> <p>21 A. You think I should have done</p> <p>22 that?</p> <p>23 MR. McKEE: Just yes or no.</p> <p>24 A. The answer is no, no. Of course</p> <p>25 not, not even a quote, no, no.</p>
<p style="text-align: right;">Page 255</p> <p>1 G. Hayden</p> <p>2 MR. ISRAEL: Objection.</p> <p>3 MR. McKEE: Objection to form.</p> <p>4 A. Not really. Probably got some</p> <p>5 contractors that work with the general</p> <p>6 contractor that may have spoken to me once or</p> <p>7 twice, like the plumbers, for instance.</p> <p>8 That's it, really.</p> <p>9 Q. You haven't talked to any other</p> <p>10 designers or architects about this project?</p> <p>11 A. No, ever, not one. It is a</p> <p>12 miracle that I allowed this Pepe to come to my</p> <p>13 office altogether. But I did, I like his</p> <p>14 work. I thought he was good, that's it.</p> <p>15 Q. Why was it a miracle you allowed</p> <p>16 him to come to your office?</p> <p>17 A. He could send it by mail.</p> <p>18 Q. But am I correct that earlier you</p> <p>19 testified you're fine with working with</p> <p>20 interior designers, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And am I correct that you were</p> <p>23 the expeditor on this project?</p> <p>24 MR. McKEE: Objection.</p> <p>25 MR. ISRAEL: Objection.</p>	<p style="text-align: right;">Page 257</p> <p>1 G. Hayden</p> <p>2 Q. Did anyone ever object to any of</p> <p>3 your invoices on this project?</p> <p>4 A. No.</p> <p>5 Q. Am I correct that you testified</p> <p>6 that you received approximately \$45,000 over</p> <p>7 the course of the project?</p> <p>8 A. That's just about right.</p> <p>9 Q. And how much of that payment was</p> <p>10 attributed to your preparation of the amended</p> <p>11 plans, not the 2011 plans but the --</p> <p>12 A. Probably like 9, 10.</p> <p>13 Q. 9- or 10,000?</p> <p>14 A. Yeah, yeah.</p> <p>15 Q. How much of your fee was</p> <p>16 attributable to your preparation of the 2011</p> <p>17 plan?</p> <p>18 A. The full 35,000, whatever the</p> <p>19 number that we agreed in the agreement,</p> <p>20 whatever the initial agreement was paid in</p> <p>21 full.</p> <p>22 Q. I'm talking about how much you</p> <p>23 know, how you did the original set of plans,</p> <p>24 then you did a first set of amended plans, and</p> <p>25 then in 2011 you filed as-built plans. How</p>

65 (Pages 254 to 257)



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1 G. Hayden  
2 much were you paid for preparing and filing  
3 the as-built plans?  
4 A. Nothing. It's because of the  
5 commitment that we made to you that you'll  
6 have a complete set of documents, that's it.  
7 Q. That was a service that you  
8 performed as part of the overall fee of the  
9 entire project?  
10 A. Absolutely. Whether you get paid  
11 upfront or down the road, it doesn't matter.  
12 You need to do that.  
13 Q. Did Medallion pay everything that  
14 was owed to you on this projects?  
15 A. Yes, definitely.  
16 Q. And am I correct that you  
17 testified earlier that all of Medallion's  
18 payments were made in a timely manner?  
19 A. Absolutely.  
20 Q. Are you aware of Medallion not  
21 making payments to any other person or entity  
22 involved in this project?  
23 MR. McKEE: Objection.  
24 A. Not at all.  
25 Q. Were the contractors paid?

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1 G. Hayden  
2 A. Well, I'm sure that hopefully  
3 they are. I mean, they did the job. I'm not  
4 sure if they are paid or not, but why wouldn't  
5 they be?  
6 Q. Do you know whether they were  
7 paid or not?  
8 A. No, I don't.  
9 Q. You don't know how much they were  
10 paid, correct?  
11 A. No, I don't. If they did the job  
12 right.  
13 Q. With respect to all the drawings  
14 that you prepared for this project, you  
15 obviously showed them to Mr. Voronchenko,  
16 correct?  
17 A. Seriously?  
18 MR. McKEE: Objection.  
19 A. Seriously, I don't think he saw  
20 them with me. But definitely looked at them  
21 on his own. They were sent over to Garry  
22 Braderman and they have meetings in the house,  
23 in the apartment and -- he did not sit down  
24 with me as normally clients would do and go  
25 over every single line. He just went over

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1 G. Hayden  
2 those drawings on his own, and I got the okay  
3 to proceed.  
4 So he didn't really sit with me  
5 and say, maybe we should move this wall to  
6 this side, and move this to this side like  
7 they normally do. I don't know if he knows  
8 how to read drawings. I don't know what he  
9 knows. He trusts you as a professional and  
10 that's all there is to it, okay.  
11 Q. Did you say Mr. Voronchenko  
12 doesn't know how to read drawings?  
13 A. I didn't say that. I said I  
14 don't know if he does know how to read them or  
15 if he wants to get involved in that degree.  
16 He hires people to do that work and he walks  
17 away or he goes back to Russia or he goes and  
18 does other work, that's what he does.  
19 Q. The amended set of plans that you  
20 filed, the amended ones, who did you show  
21 those plans to?  
22 A. The amended set of plans, they  
23 were sent over the building manager to Garry  
24 Braderman, to everybody. Everybody has that  
25 set of plans as the amended set of documents.

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1 G. Hayden  
2 That's what you're supposed to do.  
3 Q. You obviously gave them to the  
4 Department of Buildings?  
5 A. Of course.  
6 Q. And have you ever shown them to  
7 any other clients?  
8 A. For what?  
9 MR. McKEE: What do you mean?  
10 Q. Have you ever shown the drawings  
11 to any other clients?  
12 A. No, no, clients don't know, no.  
13 Q. Have you ever shown them to any  
14 other architects?  
15 A. No, no, that's all I need. No,  
16 of course not, no.  
17 Q. You've never used them in any  
18 form as a sample of your work to show to a  
19 perspective client or someone for marketing  
20 purposes?  
21 A. This project is not even in my  
22 portfolio, if you want the truth. That's how  
23 small it is. It is not even -- just the  
24 address is good, okay? No.  
25 Q. Why did you decide not to include

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1 G. Hayden  
2 it in your portfolio?  
3 A. Because I don't do interior  
4 decorating like this. Essentially it came out  
5 to be, okay? I don't live on renovating  
6 apartments. I combine apartments, yes. I put  
7 two apartments together, two floors together.  
8 I do that all the time. But we really don't  
9 get involved with interior renovation to that  
10 degree. It is not what I do.  
11 Q. This project was primarily an  
12 interior decorating project as opposed to an  
13 architectural project?  
14 A. No, it is not. This started as  
15 being the gutting of an existing apartment,  
16 services are very diversified. You know, you  
17 still need building management approval, you  
18 still need the Building Department's approval,  
19 and you still need some sort of contract to do  
20 the bids. If you do this for a living, good  
21 for you. I mean, I don't get that many  
22 apartments gutted. It is not what the office  
23 is known for. If I can do that, of course I  
24 can do that. Okay.  
25 MR. MANDEL: I would like to mark

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1 G. Hayden  
2 these drawings.  
3 (Plaintiff's Exhibit 12 through  
4 15, architectural drawings were marked  
5 for identification, as of this date.)  
6 MR. MANDEL: Off the record.  
7 (Discussion off the record.)  
8 (Recess until 4:44 p.m. until  
9 5:00 p.m.)  
10 Q. I am handing you what has been  
11 marked as Plaintiff's Exhibit 1. It is a  
12 single page drawing that's full size GH 0086.  
13 And I just ask for you to please tell me what  
14 that document is, sir?  
15 A. No, definitely not mine. We  
16 didn't do that. We never did the whole --  
17 what do you think, up in the sky, that's very  
18 stupid, this drawing never came from my  
19 office. I have no idea what this is. Do you  
20 understand that?  
21 Q. Crystal clear.  
22 A. Thank you.  
23 Q. Am I correct you don't know where  
24 this document came from?  
25 A. I just said that.

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1 G. Hayden  
2 Q. And do you recognize the  
3 handwriting on this document?  
4 A. I do not. This is silly.  
5 Q. Is it possible this is a Triarch  
6 document?  
7 A. Ask him. If the project is  
8 60th Street below, he's got something else  
9 happening.  
10 Q. Turning your attention to  
11 Plaintiff's Exhibit 13, which has been Bates  
12 stamped --  
13 A. This is mine.  
14 Q. -- GH 0344, it is a single page  
15 document, do you recognize this document, sir?  
16 A. Yeah, you know why? Because of  
17 the disclaimer right there. That disclaimer  
18 is ours.  
19 Q. What is this document?  
20 A. This is based on field  
21 reinspection and taking notes, as I said.  
22 Every single page, every single wall was  
23 measured, measured, and remeasured. This  
24 gives you like ceiling height, 9-foot 9-1/2.  
25 This was done by Carly who worked in our

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1 G. Hayden  
2 office for almost three years as well. That's  
3 her handwriting. That's a section through a  
4 detailed soffit that she wanted to put in.  
5 Some dimensions that she took, and she put on  
6 the drawings so it can reflect that in the  
7 working drawings.  
8 It is interpretation of what's  
9 there. Field measurements, that's what we do  
10 for a living, and that's definitely mine, it's  
11 got my name here too. I forgot about that.  
12 Yeah, that's good. That's our interpretation  
13 of what is existing before we started the  
14 construction.  
15 Q. Have you asked all the people who  
16 worked for you or any of the people who worked  
17 for you whether they had any communications  
18 with Triarch at all on this project?  
19 A. You got to be kidding.  
20 Absolutely not even enter their minds to talk  
21 to another architect. No, I never did and  
22 never will. It is not going to happen. You  
23 can do that all you want, I'll give you all  
24 names. You can do that.  
25 Q. I am now handing you what has

<p style="text-align: right;">Page 266</p> <p>1 G. Hayden</p> <p>2 been marked Plaintiff's Exhibit 15. It's a</p> <p>3 single page drawing that's been Bates stamped</p> <p>4 GH 0083. Do you recognize this document?</p> <p>5 A. This is Frank Williams this is</p> <p>6 the architect, this is the building's actual</p> <p>7 design drawings that built the buildings, not</p> <p>8 the apartment. You can see the concrete</p> <p>9 columns, you can see the interpretation of the</p> <p>10 architect when they designed concrete</p> <p>11 buildings and the risers, and the stairwell</p> <p>12 and what have you. This is an architect's</p> <p>13 drawing.</p> <p>14 Q. For what purpose did you use this</p> <p>15 drawing?</p> <p>16 A. I didn't use it. I just looked</p> <p>17 at it. Just to make sure we're dealing with</p> <p>18 the same plate, that's the plate of the</p> <p>19 building, you know what I'm saying? We didn't</p> <p>20 use it, just looked at.</p> <p>21 Q. I am now handing you what has</p> <p>22 been marked Plaintiff's Exhibit 14 which is a</p> <p>23 single page drawing.</p> <p>24 A. You already showed me that.</p> <p>25 Q. It's Bates stamped GH 0137.</p>	<p style="text-align: right;">Page 268</p> <p>1 G. Hayden</p> <p>2 A. I told you, he only showed up in</p> <p>3 my office once. So this is the date that he</p> <p>4 showed up in my office. That would be the one</p> <p>5 and only time that he came to my office. And</p> <p>6 if he had set up with Monica, I guess that's</p> <p>7 good. Wednesday, July 15th. He didn't come</p> <p>8 at 9 o'clock, I know he came in the afternoon.</p> <p>9 Q. Does July 15th, 2009, sound like</p> <p>10 approximately the period of time in which you</p> <p>11 met him?</p> <p>12 A. I'd like to keep that in mind</p> <p>13 because I only met him once, so that has to</p> <p>14 be. Certainly not the morning, I can tell you</p> <p>15 that much. He didn't come in the morning. He</p> <p>16 came in the afternoon, around, 2, 3, something</p> <p>17 like that.</p> <p>18 Q. Does the name Catherine Garcia</p> <p>19 sound familiar to you?</p> <p>20 A. Yes; as a matter of fact that you</p> <p>21 mention it, I saw her name down. She's the</p> <p>22 one that came with Pepe, I think so. I think</p> <p>23 so. She kept talking to Monica not me. Only</p> <p>24 spoke to Monica.</p> <p>25 (Plaintiff's Exhibit 17, an</p>
<p style="text-align: right;">Page 267</p> <p>1 G. Hayden</p> <p>2 A. It is about the same as the first</p> <p>3 one you showed me. It is just a copy, it is</p> <p>4 not just a copy. It is very close. Yes, it</p> <p>5 is very close.</p> <p>6 Q. Are you saying it is very similar</p> <p>7 to Plaintiff's Exhibit 13?</p> <p>8 A. You can see from here.</p> <p>9 Q. I have no further questions on</p> <p>10 those exhibits. Thank you very much.</p> <p>11 A. Thank you.</p> <p>12 Q. I will have this marked as</p> <p>13 Plaintiff's Exhibit 16.</p> <p>14 (Plaintiff's Exhibit 16, an</p> <p>15 e-mail dated July 7, 2009 from Garry</p> <p>16 Braderman, was marked for</p> <p>17 identification, as of this date.)</p> <p>18 Q. Mr. Hayden, I am handing you</p> <p>19 Plaintiff's Exhibit 16. It is a July 7th,</p> <p>20 2009 e-mail from Garry Braderman to you. Do</p> <p>21 you recognize this document?</p> <p>22 A. It is addressed to me. Did I</p> <p>23 ever see it? Maybe, but you know --</p> <p>24 Q. Did you meet with Mr. Calderon</p> <p>25 July 15th, 2009?</p>	<p style="text-align: right;">Page 269</p> <p>1 G. Hayden</p> <p>2 e-mail dated October 20, 2009 from</p> <p>3 Catherine Garcia, was marked for</p> <p>4 identification, as of this date.)</p> <p>5 Q. I am handing you what is marked</p> <p>6 as Plaintiff's Exhibit 17. It is an</p> <p>7 October 20th, 2009, e-mail from Catherine</p> <p>8 Garcia to you.</p> <p>9 And I would turn your attention</p> <p>10 to the middle of the second page where there</p> <p>11 is an e-mail that says, this e-mail is from</p> <p>12 you to Ms. Garcia or perhaps from Monica to</p> <p>13 Ms. Garcia, but it is from your e-mail</p> <p>14 address. It says, "Hello, Catherine.</p> <p>15 Remember the dining room DWG came through but</p> <p>16 that was the only DWG. I'm unsure if you sent</p> <p>17 the rest or not Monica?"</p> <p>18 Does July 13th, 2009, sound like</p> <p>19 approximately the period of time in which you</p> <p>20 were receiving drawings from Mr. Calderon?</p> <p>21 A. Well, it is pretty obvious the</p> <p>22 drawings that he gave me have dates. The</p> <p>23 drawings that I gave you copies of have dates.</p> <p>24 It has the correspondence to that. Do I know</p> <p>25 the exact date, not really, but you can see</p>

68 (Pages 266 to 269)

<p style="text-align: right;">Page 270</p> <p>1 G. Hayden</p> <p>2 them, you know, if that's what you're looking</p> <p>3 for. If it is the e-mail that was sent to</p> <p>4 Monica, that's obviously true.</p> <p>5 Q. Sitting here today, do you have</p> <p>6 any reason to believe that July 2009 wasn't</p> <p>7 the period of time in which you were receiving</p> <p>8 the drawings from Mr. Calderon?</p> <p>9 A. No, no, probably not, no.</p> <p>10 (Plaintiff's Exhibit 18, an</p> <p>11 e-mail from Dragan Tatalovic, was</p> <p>12 marked for identification, as of this</p> <p>13 date.)</p> <p>14 Q. I am handing you what is being</p> <p>15 marked as Plaintiff's Exhibit 18. It is an</p> <p>16 e-mail from Dragan Tatalovic to you. And</p> <p>17 there are two pages of drawings that are</p> <p>18 attached to the e-mail.</p> <p>19 Do you recognize those drawings</p> <p>20 Mr. Hayden?</p> <p>21 A. Seriously, no. No, I've never</p> <p>22 seen those before.</p> <p>23 Q. Are those drawings that were</p> <p>24 prepared by Tatalovic?</p> <p>25 A. That could be the shop drawings,</p>	<p style="text-align: right;">Page 272</p> <p>1 G. Hayden</p> <p>2 series of drawings that begins on Bates GH</p> <p>3 0017 and continues through GH 0030. Do you</p> <p>4 recognize this document?</p> <p>5 A. Yes, I do.</p> <p>6 Q. What this?</p> <p>7 A. Field measurements that we, Carly</p> <p>8 and myself did this, this is her handwriting.</p> <p>9 She worked for me for three years. We</p> <p>10 measured this apartment completely. Every</p> <p>11 wall, every room, every angle, and every</p> <p>12 corner. And that's what you're looking at.</p> <p>13 You're looking at field measurements done by</p> <p>14 hand and the tape stretched and reflected on</p> <p>15 that. That's what created the construction</p> <p>16 drawings for the apartment.</p> <p>17 Q. Did you do these on Labor Day</p> <p>18 day?</p> <p>19 A. I have no idea. We did it</p> <p>20 whenever we did it. Carly worked on Labor</p> <p>21 Day. I worked anyway.</p> <p>22 Q. What year might that have been?</p> <p>23 A. I don't know, ask her. I don't</p> <p>24 know whatever time we decided to go, we went.</p> <p>25 I'm kind of surprised it is Labor Day, unless</p>
<p style="text-align: right;">Page 271</p> <p>1 G. Hayden</p> <p>2 yeah, that could be the shop drawings but they</p> <p>3 are not directly related to my work. I mean,</p> <p>4 they could be the shop drawings from the</p> <p>5 fabrication of the panels that I have not</p> <p>6 really said much about.</p> <p>7 (Plaintiff's Exhibit 19, a series</p> <p>8 of drawings Bates stamped GH 0017</p> <p>9 through GH 0030, were marked for</p> <p>10 identification, as of this date.)</p> <p>11 A. That's pretty good though.</p> <p>12 Before the fabrication of any product you need</p> <p>13 shop drawings. Seriously, this is not a major</p> <p>14 change of the elevation that I drew except</p> <p>15 these three dimensional drawings. Everything</p> <p>16 else stays the same. Consequently, do I</p> <p>17 recall if that's a full shop drawing, probably</p> <p>18 not. Did I ever have comments on this, no, I</p> <p>19 did not.</p> <p>20 Q. I'm handing you what is being</p> <p>21 marked as Plaintiff's Exhibit 19.</p> <p>22 A. That's mine, you see.</p> <p>23 MR. McKEE: Wait for the</p> <p>24 question.</p> <p>25 Q. Plaintiff's Exhibit 19 is a</p>	<p style="text-align: right;">Page 273</p> <p>1 G. Hayden</p> <p>2 she put the note down on Labor Day to remember</p> <p>3 that's in the near future. I don't know why</p> <p>4 she put that down Labor Day. I didn't see</p> <p>5 that. Quite honestly, I don't think we went</p> <p>6 up there on Labor Day, I don't think so, no, I</p> <p>7 don't.</p> <p>8 Q. You were retained in March 2008,</p> <p>9 correct?</p> <p>10 A. You have the contract.</p> <p>11 MR. McKEE: We will stipulate it</p> <p>12 is March.</p> <p>13 Q. Would you have done these actual</p> <p>14 measurements shortly after you were retained?</p> <p>15 A. Yeah, yeah, pretty much.</p> <p>16 Q. You wouldn't have waited six</p> <p>17 months, right?</p> <p>18 A. No, no. We don't do that. You</p> <p>19 just don't wait six months to go measure,</p> <p>20 that's stupid. You see, this is my</p> <p>21 handwriting right there. This is like squares</p> <p>22 so we can draw it to scale and when --</p> <p>23 Q. I am handing you what has been</p> <p>24 marked as Plaintiff's Exhibit 20.</p> <p>25 (Plaintiff's Exhibit 20,</p>

69 (Pages 270 to 273)

<p style="text-align: right;">Page 274</p> <p>1 G. Hayden</p> <p>2 documents Bates stamped GH 031 through</p> <p>3 GH 032, was marked for identification,</p> <p>4 as of this date.)</p> <p>5 A. It is a continuation.</p> <p>6 Q. For the record, Plaintiff's</p> <p>7 Exhibit 20 begins on Bates number page GH 031</p> <p>8 and continues through page 032.</p> <p>9 Am I correct these are also</p> <p>10 measurements of the size of the existing space</p> <p>11 before the renovation began?</p> <p>12 A. Field measurements before we</p> <p>13 touched the building, confirm every angle,</p> <p>14 every wall, make sure this is what you have in</p> <p>15 the building.</p> <p>16 (Plaintiff's Exhibit 21,</p> <p>17 documents Bates stamped GH 033 through</p> <p>18 GH 035, was marked for identification,</p> <p>19 as of this date.)</p> <p>20 Q. I turn your attention to what has</p> <p>21 been marked as Plaintiff's Exhibit 21. This</p> <p>22 begins on page number GH 033 and continues</p> <p>23 through page 035. Do you recognize this</p> <p>24 document?</p> <p>25 A. Yes, I do.</p>	<p style="text-align: right;">Page 276</p> <p>1 G. Hayden</p> <p>2 A. Of course, of course. This is</p> <p>3 all do you. See, the field measurements we</p> <p>4 mentioned we made that plan with all the</p> <p>5 dimensions on it. Given the fact that we have</p> <p>6 the plans from the building architect who</p> <p>7 actually designed the building, you can't rely</p> <p>8 on that either because it is never the exact.</p> <p>9 You think the building looks exactly like it,</p> <p>10 but it never does. The only way you know that</p> <p>11 is with these things here, that gives you the</p> <p>12 plan.</p> <p>13 So when you go get field</p> <p>14 measurements by hand, and you make comments</p> <p>15 like that, you know for a fact you got the</p> <p>16 story right. That's what we try to do for</p> <p>17 this client essentially. Not just him,</p> <p>18 everybody.</p> <p>19 Q. Is it your practice to keep these</p> <p>20 kinds of notes that are in Exhibit 21?</p> <p>21 A. No, I have a folder and every</p> <p>22 time we do a set -- well, look, field</p> <p>23 measurements are really essential not to lose,</p> <p>24 because the only way you can find out if you</p> <p>25 draw it correctly or not is to look in your</p>
<p style="text-align: right;">Page 275</p> <p>1 G. Hayden</p> <p>2 Q. What is this document?</p> <p>3 A. Notes taken by Carly, probably</p> <p>4 based on trying to make the set plans</p> <p>5 complete, the drawings. Or she went back on</p> <p>6 the job site to find things that did not line</p> <p>7 up correctly.</p> <p>8 So just checking the ceiling</p> <p>9 heights before she goes back, how far the</p> <p>10 paneling needs to come out, city windows -- to</p> <p>11 fit those criteria whether we're going to</p> <p>12 install city windows or not. If we're going</p> <p>13 to put city windows in front of the windows,</p> <p>14 we need to get more details to get the window</p> <p>15 touched to the wall and find the existing</p> <p>16 windows.</p> <p>17 Make the story short, these are</p> <p>18 notes that would suggest an attempt to start</p> <p>19 the construction documents, make sure</p> <p>20 everything that you're looking for is measured</p> <p>21 and is in your hands so you can do the plans.</p> <p>22 That's what it is.</p> <p>23 Q. At this time, was the plan to</p> <p>24 prepare construction drawings before you</p> <p>25 received any work from any designer?</p>	<p style="text-align: right;">Page 277</p> <p>1 G. Hayden</p> <p>2 field measurements or go back and measure.</p> <p>3 Who wants to do that? So keep it. Carly,</p> <p>4 that's Carly that's not me. She likes to keep</p> <p>5 her notes, fine. She put them in a folder and</p> <p>6 they stayed there. If she didn't, they</p> <p>7 wouldn't be there.</p> <p>8 Q. It is not your office's practice</p> <p>9 to keep these kinds of documents?</p> <p>10 A. I don't like to throw anything</p> <p>11 out, quite honestly. That's because we didn't</p> <p>12 like to throw out anything. We don't. We</p> <p>13 like to keep it. At least for a while.</p> <p>14 Q. My question is not is it your</p> <p>15 practice to retain them once they have been</p> <p>16 created. My question is, is it your practice</p> <p>17 to create sets of notes like this?</p> <p>18 A. That's Carly. She was that type</p> <p>19 of personality, okay. It depends. Right now</p> <p>20 I don't think the current people working with</p> <p>21 me are like her, I don't think so. But we'll</p> <p>22 see.</p> <p>23 Q. These aren't your notes, these</p> <p>24 are Carly's?</p> <p>25 A. These are Carly's, yeah.</p>

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<p style="text-align: right;">Page 278</p> <p>1 G. Hayden 2 (Plaintiff's Exhibit 22, set of 3 drawings, was marked for 4 identification, as of this date.) 5 Q. I am handing you what has been 6 marked as Plaintiff's Exhibit 22. It is a set 7 of drawings and possibly renderings that 8 begins on Bates number page GH 0087 through 9 page number 0093 consecutively. 10 Do you recognize this document? 11 A. As a matter of fact, I have a 12 copy of that. I don't know how I got it, but 13 I do have it. I've seen this before, yeah. 14 Q. Do you know who prepared this? 15 A. No, not at all. Not at all. 16 Wait a minute, can I take it back? 17 Q. If you like. 18 A. I think this may have come in 19 with what's his name? Pepe. It could have 20 come in with Pepe. This could have come with 21 Pepe. I said I seen it before, now I 22 recognize the word, in leather. Yeah, as a 23 matter of fact I think it came as part of the 24 package. But why would it have a drawing like 25 this? It doesn't add up now, does it?</p>	<p style="text-align: right;">Page 280</p> <p>1 G. Hayden 2 using Plaintiff's Exhibit 22 in any way on 3 this project? 4 A. No, not at all. Can I see that, 5 what is this? 6 MR. MANDEL: Off the record. 7 (Discussion off the record.) 8 (Plaintiff's Exhibit 23 a 9 document Bates stamped GH 97, was 10 marked for identification, as of this 11 date.) 12 Q. Turning your attention to what 13 has been marked as Exhibit Plaintiff's 23. It 14 begins on Bates numbered page GH 97 and 15 continues to GH 98. Do you recognize this 16 document? 17 A. Yes, I do. 18 Q. What is it? 19 A. Picture of products, picture of 20 furniture, really photographs of a cup, I 21 don't know. Some type of a light. Living 22 room, bedroom furniture, something like that. 23 It is furniture. 24 Q. Who provided that document to 25 you?</p>
<p style="text-align: right;">Page 279</p> <p>1 G. Hayden 2 Q. You're not sure where it came 3 from? 4 A. This one is where it says 5 leather -- maybe not. You know what, there is 6 no way this did not come from Pepe, okay. But 7 these -- no, no, no. I don't know. This is 8 not from Pepe. The crown and the base, 9 leather. 10 Wait a second. 11 MR. McKEE: Don't think out loud. 12 When you reached a conclusion -- 13 A. Where the hell did this come 14 from? I have no idea. But I know I've 15 definitely seen it before. 16 Q. You don't recall where it came 17 from, that's okay if you don't recall. 18 Whose handwriting is on the 19 document? 20 A. That's what I'm looking at. 21 That's exactly what I'm looking it. It would 22 be Monica. It could be Monica who wrote these 23 drawings with her own writing. It could be 24 Monica. 25 Q. Do you have any recollection of</p>	<p style="text-align: right;">Page 281</p> <p>1 G. Hayden 2 A. Vladimir himself gave it to me by 3 hand. 4 Q. Do you know who prepared it? 5 A. He gave it to me. I got it from 6 Vladimir. 7 Q. Do you know who created that 8 document? 9 A. It is a picture. What do you 10 mean created? It is a photograph. Somebody 11 looked at a product and made a picture, and 12 took a picture and gave it to Vladimir. He 13 wanted to buy this. He wanted to buy chairs 14 similar to this, pictures similar to this. 15 Obviously a couch similar to this. He just 16 gets some ideas. He's just trying to buy 17 furniture before the construction is complete. 18 That's a little too quick, isn't it? Anyway. 19 Q. Did you have a response when you 20 saw those photos? 21 A. Didn't like them at all. 22 (Plaintiff's Exhibit 24, a 23 document Bates stamped GH 99 through 24 GH 101, was marked for identification, 25 as of this date.)</p>

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<p style="text-align: right;">Page 282</p> <p>1 G. Hayden</p> <p>2 Q. Plaintiff's Exhibit 24, that</p> <p>3 document begins on Bates numbered page GH 99</p> <p>4 and goes GH 101. Do you recognize the</p> <p>5 document?</p> <p>6 A. Yes.</p> <p>7 Q. What is it?</p> <p>8 A. Again furniture.</p> <p>9 Q. Did you have the same reaction to</p> <p>10 this furniture?</p> <p>11 A. No, no, I did not. The whole</p> <p>12 story was horrible, with the exception of the</p> <p>13 headboard. The bedroom headboard was a little</p> <p>14 too high but, yes, it is doable. We can do a</p> <p>15 headboard like that if we want to. As a</p> <p>16 matter of fact, we did that. Not that height.</p> <p>17 But about this height, so you can see it looks</p> <p>18 much better with a lower headboard? We did do</p> <p>19 that.</p> <p>20 We put the bed exactly the same</p> <p>21 spot, got a lower headboard and fastened it to</p> <p>22 the wall. It's up to you. You can make it as</p> <p>23 tall as you want. We had it a little</p> <p>24 shortened.</p> <p>25 Q. Did you use any other photos in</p>	<p style="text-align: right;">Page 284</p> <p>1 G. Hayden</p> <p>2 Q. Did you use that document for any</p> <p>3 purpose?</p> <p>4 A. No, not really. Because even</p> <p>5 though you see the window opening is this big,</p> <p>6 you can clearly find on the other document</p> <p>7 that we measured the windows.</p> <p>8 Q. Is there some reason that</p> <p>9 document is in color?</p> <p>10 A. Seriously I wouldn't know. Why</p> <p>11 is it in color? Is it the only one in color</p> <p>12 ever that I've seen? No. No, I don't know</p> <p>13 why it is in color.</p> <p>14 (Plaintiff's Exhibit 26, a</p> <p>15 document Bates stamped GH 0128 through</p> <p>16 GH 0129, was marked for identification,</p> <p>17 as of this date.)</p> <p>18 Q. I am handing you what has been</p> <p>19 marked as Plaintiff's Exhibit 26. It begins</p> <p>20 on Bates numbered page GH 0128 and continues</p> <p>21 on to GH 0129. Do you know what this document</p> <p>22 is?</p> <p>23 A. Yeah, as a matter of fact I do</p> <p>24 know what that is. This is an architect,</p> <p>25 Mr. Krochay, I believe, over here, who</p>
<p style="text-align: right;">Page 283</p> <p>1 G. Hayden</p> <p>2 Exhibit 24?</p> <p>3 A. No, like this, no thanks. No, we</p> <p>4 did not. No, we did not. This is the</p> <p>5 headboard, it was fairly acceptable.</p> <p>6 Interesting, but that's it really.</p> <p>7 (Plaintiff's Exhibit 25, a</p> <p>8 document Bates stamped GH 0120, was</p> <p>9 marked as of this date.)</p> <p>10 Q. I am showing you what has been</p> <p>11 marked as Plaintiff's Exhibit 25. It is one</p> <p>12 page, GH 0120. Do you recognize this</p> <p>13 document?</p> <p>14 A. Yeah, I've seen it before.</p> <p>15 Q. What is it?</p> <p>16 A. What it is is a floor plan of the</p> <p>17 apartment, could be. I'm saying could be, a</p> <p>18 reduced copy of the Architect Frank Williams</p> <p>19 who designed the building, Frank Williams.</p> <p>20 Q. But you don't know what it is?</p> <p>21 A. I just said I do. I think it</p> <p>22 could be a xerox reduced version of Frank</p> <p>23 Williams's drawing, the architect who designed</p> <p>24 the building, and it is pretty much what it</p> <p>25 is, yeah.</p>	<p style="text-align: right;">Page 285</p> <p>1 G. Hayden</p> <p>2 designed a very similar apartment on a</p> <p>3 different floor, assuming. So I guess it was</p> <p>4 given to me just to see how the foyer is</p> <p>5 handled in a way or something to that effect.</p> <p>6 But it was not -- yeah, it was given to me by</p> <p>7 Vladimir himself. He gave me this, as a</p> <p>8 matter of fact, this is -- yeah, he gave me</p> <p>9 that also.</p> <p>10 Q. What did you use it for?</p> <p>11 A. As I said, to see how the foyer</p> <p>12 is handled with the doors into the vestibule.</p> <p>13 Just really kind of important to see how a</p> <p>14 foyer is laid out. So he likes to see a</p> <p>15 similar foyer. So he showed me this, can this</p> <p>16 be done? I said I think so, I'm not --</p> <p>17 Q. Did there come a point in time</p> <p>18 when there was some miscommunication between</p> <p>19 you and the co-op board?</p> <p>20 A. Never.</p> <p>21 Q. Was there a letter that they sent</p> <p>22 to you that wasn't responded to for sometime?</p> <p>23 A. I didn't respond to their letter?</p> <p>24 Q. That's what I'm asking. I am not</p> <p>25 accusing you of anything, I'm just asking.</p>

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<p style="text-align: right;">Page 286</p> <p>1 G. Hayden</p> <p>2 A. No, not at all, no.</p> <p>3 Q. I am handing you what is being</p> <p>4 marked as Plaintiff's Exhibit 27. This</p> <p>5 document is not Bates stamped. It is five</p> <p>6 pages long and it appears to contain</p> <p>7 construction drawings, many of which appear to</p> <p>8 contain Garth Hayden's name on them.</p> <p>9 (Plaintiff's Exhibit 27,</p> <p>10 construction drawings were marked for</p> <p>11 identification, as of this date.)</p> <p>12 MR. McKEE: What's the question.</p> <p>13 Q. Do you recognize that document?</p> <p>14 A. Yes, I do.</p> <p>15 Q. What is it?</p> <p>16 A. I'm going to say this could be</p> <p>17 the start, certainly not completed, the start</p> <p>18 of the construction drawings. Good start.</p> <p>19 Not finished, but good start. It may have</p> <p>20 been given to the client just to look at</p> <p>21 before it goes any further. Progress print,</p> <p>22 that's what it is called. You can call it</p> <p>23 that.</p> <p>24 Q. Do you know approximately when</p> <p>25 they were created?</p>	<p style="text-align: right;">Page 288</p> <p>1 G. Hayden</p> <p>2 A. You know what? I have no idea</p> <p>3 what this is all about. It looks to me that</p> <p>4 they are trying to get some of furniture</p> <p>5 together or something like that.</p> <p>6 Q. You didn't use these in creating</p> <p>7 your construction drawings, right?</p> <p>8 A. No, no, not at all. Totally</p> <p>9 irrelevant.</p> <p>10 (Plaintiff's Exhibit 29, one-page</p> <p>11 document Bates stamped Medallion 014,</p> <p>12 was marked for identification, as of</p> <p>13 this date.)</p> <p>14 Q. I am handing you what has been</p> <p>15 marked as Plaintiff's Exhibit 29. It is a</p> <p>16 single page that's Bates stamped Medallion</p> <p>17 014. Am I correct that this was an initial</p> <p>18 drawing that you prepared on how to one way</p> <p>19 possibly renovate the apartment?</p> <p>20 A. Yeah, yeah, sure, and it is also</p> <p>21 Scheme B, that there's more than one scheme.</p> <p>22 This is a schematic, it stands for scheme, so</p> <p>23 SK is a scheme. So it is really not a</p> <p>24 construction document. It is merely a</p> <p>25 suggestion as to how this apartment can be</p>
<p style="text-align: right;">Page 287</p> <p>1 G. Hayden</p> <p>2 A. It would be a date. The drawings</p> <p>3 should have a date. It doesn't have a date,</p> <p>4 no good. It doesn't have a date.</p> <p>5 You could possibly compare this</p> <p>6 to the first set of approved plans. It</p> <p>7 definitely came before that. So somewhere in</p> <p>8 that area this drawing was created. I really</p> <p>9 can't tell. It is definitely our drawing,</p> <p>10 there is no question. It is a progress print</p> <p>11 during the construction -- during the</p> <p>12 preparation of the construction documents.</p> <p>13 This is probably a print, the initial printout</p> <p>14 of the set coming up.</p> <p>15 (Plaintiff's Exhibit 28, an</p> <p>16 e-mail dated July 10, 2009 with</p> <p>17 attachments, was marked for</p> <p>18 identification, as of this date.)</p> <p>19 Q. I am handing you what has been</p> <p>20 marked as Plaintiff's Exhibit 28. It is a</p> <p>21 July 10th, 2009, e-mail from Catherine Garcia</p> <p>22 to you or to your e-mail address, I should</p> <p>23 say. It is not Bates stamped, but it has four</p> <p>24 pages of drawings attached to it. What are</p> <p>25 these drawings of?</p>	<p style="text-align: right;">Page 289</p> <p>1 G. Hayden</p> <p>2 arranged within these walls.</p> <p>3 So if you want to layout the</p> <p>4 furniture according to the architects you</p> <p>5 don't have a good result. The focal point is</p> <p>6 the baby piano when you walk in. It was</p> <p>7 designed fairly well in terms of furniture</p> <p>8 arrangement on the basis of the size of the</p> <p>9 apartment and the scale of the chairs, yeah,</p> <p>10 it is just to give a client an idea of what</p> <p>11 furniture would look like at the end. It is</p> <p>12 schematic.</p> <p>13 Q. How many schemes did you do?</p> <p>14 A. Two, A and B. Maybe C, I don't</p> <p>15 know. Definitely A and B for sure.</p> <p>16 Q. Has anyone agreed to indemnify</p> <p>17 you for any settlement or judgment that maybe</p> <p>18 reached in this case?</p> <p>19 MR. McKEE: Objection. Do you</p> <p>20 understand what that mean?</p> <p>21 A. I do.</p> <p>22 I don't know if he really put --</p> <p>23 I spoke to Garry about that, Garry Braderman,</p> <p>24 of course. And he said to me that you have</p> <p>25 absolutely nothing to do with this. I said,</p>

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1 G. Hayden  
2 do with what? And he said, of this potential  
3 litigation, what have you. He did say that.  
4 But did he send me something in writing  
5 saying, no, he did not.  
6 Q. Did he promise orally to cover  
7 any settlement or judgment that you might have  
8 to pay in this case?  
9 A. Why are you asking me that?  
10 Q. We got very little time. I just  
11 need you to answer the questions.  
12 A. He made representations that he  
13 would.  
14 Q. When did he do that?  
15 A. I guess the moment I contacted  
16 the insurance company about what happened.  
17 Q. Was that shortly after this suit  
18 was filed?  
19 A. As soon as I was notified, yeah.  
20 I spoke to him about that, it is kind of very  
21 very disturbing, you know that.  
22 Q. Do you recall what words he used  
23 when he promised you he would pay you for any  
24 judgment or settlement that you have to pay in  
25 the case?

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1 G. Hayden  
2 MR. McKEE: Objection to form.  
3 A. What words he used?  
4 Q. Yes.  
5 A. Well, I don't -- didn't really  
6 pinpoint his answers to that either. Listen,  
7 you know, things happen. He did say that he  
8 would take care of stuff financially and I  
9 don't have to worry about it. If that was the  
10 case, why am I here? Why do I get my  
11 attorneys involved?  
12 Q. Is he paying your attorneys'  
13 fees?  
14 A. Not to my knowledge.  
15 Q. Is your insurer paying your  
16 attorneys' fees?  
17 A. Of course.  
18 Q. Have you paid any of your  
19 attorneys' fees?  
20 A. No.  
21 Q. How much insurance do you have in  
22 this case?  
23 A. Why do you want to know that? I  
24 mean I have a lot, I have a lot.  
25 Q. How much?

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1 G. Hayden  
2 MR. McKEE: He's entitled to  
3 know. If you know off the top of your  
4 head, just tell him.  
5 A. It is \$200 an occurrence.  
6 Q. What is the deductible?  
7 A. 5,000.  
8 Q. 5,000?  
9 A. 5,000.  
10 Q. Did your insurer require you to  
11 pay the first \$5,000 in attorneys' fees?  
12 A. Absolutely.  
13 Q. Did you pay them?  
14 A. Not yet, I'm sure I'm going to  
15 get a bill one day that I don't know about,  
16 right?  
17 Q. Have you ever been involved in  
18 any other litigation?  
19 A. Just once.  
20 Q. What did that involve?  
21 A. It was another architect, believe  
22 it or not, who for some reason built a  
23 building based on information that I provided  
24 to a client and he took it and he built the  
25 building based on that and the building sunk

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1 G. Hayden  
2 under water, and they got sued and I got  
3 dragged into it, and got thrown out of court,  
4 thank you.  
5 Q. You won that case?  
6 A. I didn't win anything. I just  
7 didn't really want to talk to these people  
8 anymore.  
9 Q. Did you make a motion to dismiss?  
10 A. He's the same law firm.  
11 Q. Okay.  
12 A. They made whatever motions they  
13 did. Obviously the judge decided it at the  
14 end of the day, that this is ludicrous and  
15 absurd.  
16 MR. McKEE: It is a directed  
17 verdict.  
18 Q. You were deposed in that case?  
19 A. Sure.  
20 Q. And did you testify at trial in  
21 that case?  
22 A. Yes, I sat there in front of the  
23 judge.  
24 MR. McKEE: No.  
25 A. I did.

<p style="text-align: right;">Page 294</p> <p>1 G. Hayden</p> <p>2 MR. McKEE: No, he did not</p> <p>3 testify at trial. Before he took the</p> <p>4 stand in court the judge dismissed the</p> <p>5 claim. And we were removed from the</p> <p>6 case.</p> <p>7 THE WITNESS: Okay, good.</p> <p>8 MR. MANDEL: That was your work,</p> <p>9 Mr. McKee?</p> <p>10 MR. McKEE: It was Kevin O'Neil.</p> <p>11 MR. MANDEL: Excellent work just</p> <p>12 the same.</p> <p>13 A. That's the only lawsuit I ever</p> <p>14 encountered in my whole career. 27 years now</p> <p>15 you got me with the second one which is more</p> <p>16 bizarre than the first one, any way.</p> <p>17 MR. McKEE: Stop. Let's try to</p> <p>18 get done.</p> <p>19 A. Go ahead.</p> <p>20 Q. Am I correct that you're a</p> <p>21 licensed architect?</p> <p>22 A. Yes, you are.</p> <p>23 Q. Have you ever been disciplined or</p> <p>24 sanctioned by any authority that regulates</p> <p>25 your license?</p>	<p style="text-align: right;">Page 296</p> <p>1 G. Hayden</p> <p>2 take half a wall out, no.</p> <p>3 MR. McKEE: Point of</p> <p>4 clarification, you want to define what</p> <p>5 you mean by complete?</p> <p>6 MR. MANDEL: To complete the</p> <p>7 construction on the project.</p> <p>8 MR. McKEE: From the start of</p> <p>9 design phase?</p> <p>10 THE WITNESS: To the move in date?</p> <p>11 MR. McKEE: To the move in date.</p> <p>12 MR. MANDEL: Yes.</p> <p>13 A. No, 18 months is really kind of</p> <p>14 being nice and generous. It can take up to</p> <p>15 two years for something like that. At that</p> <p>16 scale it is a big project.</p> <p>17 Q. How much can be completed in a</p> <p>18 four-month period?</p> <p>19 A. Probably the plans could be</p> <p>20 drawn, possibly filed, maybe not even</p> <p>21 approved. But also you do know that there's a</p> <p>22 client approval, you know you do draw a set of</p> <p>23 plans and the client has to look at it. If he</p> <p>24 approves it a little quick, it is a little</p> <p>25 quicker.</p>
<p style="text-align: right;">Page 295</p> <p>1 G. Hayden</p> <p>2 A. No.</p> <p>3 Q. Have you ever been charged with a</p> <p>4 crime?</p> <p>5 A. No.</p> <p>6 Q. Have you ever been convicted of a</p> <p>7 crime?</p> <p>8 A. No.</p> <p>9 Q. If everything had gone perfectly,</p> <p>10 what's the fastest this project could have</p> <p>11 been accomplished in?</p> <p>12 MR. McKEE: Objection.</p> <p>13 A. Everything was done perfectly.</p> <p>14 Are you stating things were not done</p> <p>15 perfectly?</p> <p>16 Q. I don't mean to imply things</p> <p>17 weren't done perfectly. For a renovation of</p> <p>18 this type, what's the fastest it could ever be</p> <p>19 completed in the real word from the day the</p> <p>20 client walks in your office?</p> <p>21 A. Until the day the construction is</p> <p>22 complete, I'd say 18 months, very reasonable.</p> <p>23 Q. Would it be possible to</p> <p>24 accomplish in four months?</p> <p>25 A. No, not at all. You can't even</p>	<p style="text-align: right;">Page 297</p> <p>1 G. Hayden</p> <p>2 Q. Would Mr. Voronchenko take his</p> <p>3 time on this project?</p> <p>4 A. A lot of time. A lot of time, he</p> <p>5 likes to think.</p> <p>6 Q. I have a series of documents that</p> <p>7 ordinarily I would ask him to authenticate,</p> <p>8 but because Mr. McKee has to go --</p> <p>9 MR. McKEE: How long do you think</p> <p>10 it will take?</p> <p>11 MR. MANDEL: Well, what I'm</p> <p>12 inclined to do is I think they're</p> <p>13 mostly filings, things submitted to the</p> <p>14 Department of Buildings. I think we'll</p> <p>15 be able to stipulate on it, and I don't</p> <p>16 want to take your time or his time</p> <p>17 today. The potential risk that we're</p> <p>18 going to need to call Mr. Hayden after</p> <p>19 Medallion makes their document</p> <p>20 production.</p> <p>21 As I'm committed to, I am going</p> <p>22 to do everything I can to avoid that,</p> <p>23 because I don't want this deposition to</p> <p>24 continue beyond today. What I would</p> <p>25 like to do is just suspend this right</p>

75 (Pages 294 to 297)

<p style="text-align: right;">Page 298</p> <p>1 G. Hayden  2 now, and hope that we never have to  3 resume, but let everyone go for the day.  4 THE WITNESS: Okay, thank you.  5 MR. McKEE: Hold on minute. If  6 you got a number of documents that you  7 want to authenticate, let's go through  8 them. I'll stay for a little while  9 longer. I sent an e-mail saying that  10 I'm running late, they'll just have to  11 wait.  12 Q. Turning your attention to what  13 has been marked as Plaintiff's Exhibit 30, it  14 is a two-page application entitled, PW-2:  15 Work Permit Application.  16 (Plaintiff's Exhibit 30, a  17 two-page application entitled PW-2:  18 Work Permit Application, was marked for  19 identification, as of this date.)  20 A. Okay.  21 Q. Do you recognize this document?  22 A. I recognize the title of the  23 document. Application of Permit, that's what  24 it means, so --  25 (Plaintiff's Exhibit 31, document</p>	<p style="text-align: right;">Page 300</p> <p>1 G. Hayden  2 TR 1 is signed. And I don't know what the  3 TR 1 is doing with the second filing. It does  4 not go together. Look at the date.  5 MR. McKEE: That's why I just  6 grabbed it.  7 Q. Let's just turn to the last  8 page of this document. I think he's been  9 clear on what's right or what's wrong, unless  10 there is something you would like to correct.  11 Just turning your attention to  12 the last page of this document.  13 A. Sure.  14 Q. What is this page?  15 MR. MANDEL: For the record it is  16 GH 360?  17 A. The plumbing, yeah, the plumbing  18 work that was done in this apartment, was  19 signed off by the Buildings Department on that  20 same date testifying to the fact that the  21 plumbing is done perfectly acceptable on  22 10/7/2011. That's very good news.  23 Q. In all capital letters next to  24 what appears to be document number 1, it says,  25 "No change in use, egress or occupancy." Is</p>
<p style="text-align: right;">Page 299</p> <p>1 G. Hayden  2 Bates stamped GH 345 through GH 360,  3 was marked for identification, as of  4 this date.)  5 Q. I am showing you what is being  6 marked as Plaintiff's Exhibit 31. It begins  7 on Bates GH 345 and goes through GH 360. This  8 is how this document was produced to me. I'm  9 not sure that all these pages should be  10 together.  11 A. Okay.  12 Q. Turning your attention to page  13 GH 355, is that your signature?  14 A. On the TR 1, yeah.  15 Q. Was this a W-1 that you submitted  16 to the Department of Buildings?  17 A. No, it is not because it should  18 have also have had seal and signature on here  19 as a revised, as-built, this is probably  20 just -- it is not even signed. It is not  21 signed. The only one that seems to be  22 properly signed is the TR 1, which is control  23 and inspection.  24 Q. What is the TR 1?  25 A. Technical Responsibility, and</p>	<p style="text-align: right;">Page 301</p> <p>1 G. Hayden  2 that an accurate description of the renovation  3 that was performed on the apartment?  4 A. Absolutely.  5 Q. Was there any change made in  6 egress?  7 A. No.  8 Q. Turning your attention to what  9 has been marked as Plaintiff's Exhibit 32,  10 which begins on Bates number page GH 361 and  11 continues through page 364.  12 Do you recognize this document?  13 (Plaintiff's Exhibit 32, document  14 Bates stamped GH 361 through GH364 was  15 marked for identification, as of this  16 date.)  17 A. Yeah, that's probably your second  18 amended, right? Something like that. This is  19 the last amendment, 10/21/2011, as-built,  20 yeah, this is the one that's filed, the last  21 amendment that you looked at. I said the  22 paperwork attached to the amendments, this is  23 it.  24 Q. Does this refresh your  25 recollection as to when the construction was</p>

76 (Pages 298 to 301)

<p style="text-align: right;">Page 302</p> <p>1 G. Hayden</p> <p>2 complete?</p> <p>3 A. Yes, absolutely this is as built,</p> <p>4 that means everything is done and over with,</p> <p>5 yes.</p> <p>6 Q. Would you have filed this</p> <p>7 document after construction was complete?</p> <p>8 A. Shortly or otherwise I filed it.</p> <p>9 I was told construction was done, go take a</p> <p>10 look, and can you get us the file soon.</p> <p>11 Q. Am I correct you filed this</p> <p>12 document on October 21, 2011?</p> <p>13 A. 10/21/2011, yeah, very recent.</p> <p>14 (Plaintiff's Exhibit 33, a work</p> <p>15 permit Bates stamped GH 034 was marked</p> <p>16 for identification, as of this date.)</p> <p>17 Q. I just handed you what has been</p> <p>18 marked as Plaintiff's Exhibit 33. It is</p> <p>19 one-page Bates numbered GH 034. What is this</p> <p>20 document?</p> <p>21 A. It is a work permit. Copy of the</p> <p>22 work permit that was given to the contractor</p> <p>23 on 4/28/2009. The life span is only three</p> <p>24 months. Obviously he got another one after</p> <p>25 this.</p>	<p style="text-align: right;">Page 304</p> <p>1 G. Hayden</p> <p>2 drawing A-5. It says paperwork saying what</p> <p>3 you're sending to be reapproved by the</p> <p>4 Building Department.</p> <p>5 (Plaintiff's Exhibit 35, an</p> <p>6 e-mail, dated April 18, 2009 was marked</p> <p>7 for identification, as of this date.)</p> <p>8 Q. I am handing you what has been</p> <p>9 marked as Exhibit 35, Plaintiff's Exhibit 35,</p> <p>10 it is an April 18th, 2009 e-mail from</p> <p>11 Mr. Tatalovic to yourself. Did you receive</p> <p>12 this e-mail?</p> <p>13 A. I'm sure I did. But the shower,</p> <p>14 in fact, stayed. So obviously we saw that.</p> <p>15 Q. And this e-mail says --</p> <p>16 A. Shower, yeah, go ahead.</p> <p>17 Q. "Shower in the powder room stays</p> <p>18 like we discussed. Everything else stays the</p> <p>19 same like in your plan, I'm going to call you</p> <p>20 on Monday."</p> <p>21 Did everything else stay the same</p> <p>22 after this e-mail was sent?</p> <p>23 A. I mean, up to the timing of this</p> <p>24 e-mail everything stayed the same. The second</p> <p>25 they could change, but after that point, yes.</p>
<p style="text-align: right;">Page 303</p> <p>1 G. Hayden</p> <p>2 Q. Did you get another work permit</p> <p>3 after that one?</p> <p>4 A. I don't do that, contractors do</p> <p>5 that. I don't take out permits for</p> <p>6 contractors, they do that. They can't work</p> <p>7 with an expired permit. They should know</p> <p>8 better than that.</p> <p>9 Q. Did they obtain a subsequent</p> <p>10 permit?</p> <p>11 A. Of course, of course, of course.</p> <p>12 (Plaintiff's Exhibit 34, document</p> <p>13 Bates stamped GH 0036 through GH 0040,</p> <p>14 was marked for identification, as of</p> <p>15 this date.)</p> <p>16 Q. Turning your attention to what</p> <p>17 has been marked as Exhibit 34 which begins on</p> <p>18 page number page GH 0036 and continues through</p> <p>19 GH 0040, do you recognize this document?</p> <p>20 A. This is the paperwork that came</p> <p>21 with the second or first amendment to show the</p> <p>22 dropped soffit, it tells you just that.</p> <p>23 Ceiling details on lighting and soffits,</p> <p>24 details in lighting, and that was submitted</p> <p>25 with drawings, the plan A-1 through A-4, and</p>	<p style="text-align: right;">Page 305</p> <p>1 G. Hayden</p> <p>2 Q. There were changes after</p> <p>3 April 18th, 2009?</p> <p>4 A. I'm sure, I'm sure. Just a</p> <p>5 statement was made in reference to the shower,</p> <p>6 essentially. And whatever was submitted</p> <p>7 earlier, so he can change his mind any time</p> <p>8 after that.</p> <p>9 MR. MANDEL: I really appreciate</p> <p>10 getting all those remaining documents</p> <p>11 out of the way, both of you.</p> <p>12 Technically I can't close the</p> <p>13 deposition because we still may get</p> <p>14 more documents from Medallion and</p> <p>15 Mr. Voronchenko. But my hope is we</p> <p>16 won't have to take anymore deposition</p> <p>17 testimony.</p> <p>18 THE WITNESS: Thank you so much,</p> <p>19 I appreciate it. Thank you.</p> <p>20 MR. McKEE: I take that position</p> <p>21 under advisement.</p> <p>22 MR. MANDEL: I understand that</p> <p>23 everyone is reserving all their rights.</p> <p>24 MR. McKEE: Yes.</p> <p>25 (Time noted: 5:55 p.m.)</p>

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1  
2 I, the witness herein, having  
3 read the foregoing testimony do hereby  
4 certify it to be a true and correct  
5 transcript, subject to the corrections,  
6 if any, shown on the attached page.  
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GARTH HAYDEN

Subscribed and sworn to  
before me this \_\_\_\_ day  
of \_\_\_\_\_, 2012.

\_\_\_\_\_

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